

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Paul Samuell, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE ALTON RAILROAD COMPANY

DISPUTE.—"Request of the General Committee of the Order of Railroad Telegraphers of the Alton Railroad that Mr. G. W. Henry be reinstated to his former position at Kansas City, Mo., from which he was removed on August 12, 1934, and that he be paid for all time lost."

FINDINGS.—The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

Said cause having deadlocked, Paul Samuell was called in as Referee to sit with this Division.

Telegrapher Henry was summoned by the Superintendent of the Carrier to appear at the office of the latter on August 13, 1934, "for investigation in connection with misuse of transportation" on certain stated dates; and at said "investigation" formal statement was taken from Henry in the presence of counsel of his choosing, and the same made matter of record.

A question of guilt or innocence of the accused employee is not properly before the Adjustment Board for determination, and the Third Division is estopped from consideration of the same.

An Agreement, bearing effective date February 16, 1929, exists between the parties from which Rule 9 is cited, in part, and relied upon by complainant party as follows, to wit:

"A Telegrapher will not be disciplined or discharged before being given a hearing, and may have an employee of his own choice present at such hearing if he so desires."

Complainant party maintains that Carrier did not conduct a "hearing", but that the formal inquiry conducted on August 13, 1934, was only an "investigation", and, therefore, the Carrier did not comply with Rule 9 above quoted, but it is found in this particular case that the so-called "investigation" was in truth and fact a "hearing" for every practical purpose, and Mr. Henry's rights were not prejudiced by the action taken at said hearing nor was he misled as to the nature of the inquisition.

Inasmuch as no good purpose would be served in a formal hearing—

AWARD

Request made subject of the dispute is denied.

By Order of Third Division,

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 24th day of June, 1935.