

Award No. 2807
Docket No. TD-2770

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Jay S. Parker, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION
CHICAGO AND NORTH WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: (1) Claim of the American Train Dispatchers Association that the Chicago and North Western Railway Company violated Rule 24 of the Train Dispatchers' Agreement when on February 7, 1944, it placed fifty (50) demerit marks against Dispatcher G. O. Pope's service record without proper notice and without proper hearing.

(2) By reason of the violation, the fifty (50) demerit marks and any and all charges in connection therewith shall now be removed from Dispatcher Pope's service record.

OPINION OF BOARD: This is another discipline case where the principal contention of the Carrier is that a notice requiring an employe to appear so that it can secure a statement from him and the holding of an investigation pursuant to such a notice is tantamount to the giving of a notice specifying the precise nature of a charge or complaint and to the giving to the employe of a fair and impartial hearing, as required by Rule 24 of the current Agreement with the American Train Dispatchers Association.

There is no material difference between the facts and principles involved in this case and the one thoroughly discussed in the opinion of Docket TD-2772, Award No. 2806, this day decided by this Division. What was said there is equally applicable to the factual situation disclosed by the present record, the only distinction being that there the facts required the determination of certain additional issues not presented here. The Division, therefore, reaffirms all principles, announced in Award No. 2806, applicable to the facts of this case and holds that the Carrier not only failed to give Claimant a notice of hearing but failed to give him any hearing at all as contemplated and required by Rule 24 of the current Dispatchers' agreement.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and Employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That from the facts appearing in the record and in conformity with the principles applicable thereto, as announced in Award 2806, the claim should be and is sustained.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 21st day of February, 1945.