

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

James M. Douglas, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
ATLANTIC COAST LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atlantic Coast Line Railroad Company, that E. B. Rustin was unjustly dismissed from the service effective October 2, 1946, and

- (a) shall be restored to his position of second trick leverman-telegrapher at Moncrief Tower (Jacksonville, Fla.) with seniority and pass right unimpaired,
- (b) and shall be paid for all time lost from October 2, 1946, until restored to his position at Moncrief Tower.

OPINION OF BOARD: Petitioner claims that employe Rustin, a leverman-telegrapher, was unjustly dismissed, and seeks his reinstatement with restoration of seniority rights and payment for all time lost.

Under the agreement of November 1, 1939, we find in Article 18 the following rules which are applicable here.

"(a) Employes will not be suspended without just cause, and will not be discharged without an investigation should they request it.

"(b) An employe disciplined, or who considers himself unjustly treated, shall have a fair and impartial hearing, provided, written request is presented to his immediate superior within ten (10) days of the date of the advice of discipline, and the hearing shall be granted within ten (10) days thereafter."

"(f) An employe, on request, will be given a letter stating the cause of discipline. A transcript of the evidence taken at the investigation or on the appeal will be furnished on request of the employe or representative."

The employe was assigned to Moncrief Tower interlocking plant located at the north end of the Jacksonville, Florida, freight yard. Heavy traffic at this tower demanded its continuous operation. The movements of mainline passenger and freight trains to and from the passenger station or freight yard; movements of switch and light engines; movements of Southern Railway freight trains to and from that Carrier's terminal, and movements of Southern Railway intra-yard switch engines over the double track main line are all controlled from this tower through the operation of signals and

switches. The tower is also a train order office. It is connected with both telegraph and telephone lines.

The employe was charged with unsatisfactory handling of trains in failing to register and report a train and in unnecessarily delaying the movement of a train.

These facts are not in dispute but employe's excuses and explanations for his conduct are in sharp dispute.

It would serve no purpose to relate the details of Carrier's evidence and employe's excuses for his neglect of duty. It is sufficient to say that the rules for administering discipline were observed, a hearing granted, and a transcript of the evidence furnished the employe. The evidence substantially sustains the charge and shows employe neglected his duties. While the penalty of dismissal is severe, still after a careful examination of the record we must conclude that in imposing such a penalty Carrier was not arbitrary or unreasonable.

Accordingly, the claim must be denied.

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 Employe 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 Carrier did not violate the agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 7th day of June, 1948.