

Award No. 6163
Docket No. CLX-6170

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Mortimer Stone, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

RAILWAY EXPRESS AGENCY, INC.

STATEMENT OF CLAIM: Claim of the District Committee of the Brotherhood that:

(a) The agreement governing hours of service and working conditions between the Railway Express Agency, Inc. and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, effective September 1, 1949, was violated at the High Street Express Terminal, Minneapolis, Minnesota, August 14, 1950, in the treatment accorded Carl W. Johnson in suspending him from service as a result of an alleged investigation held July 13, 1950;

(b) He shall be compensated in accordance with Agreement rules, for salary loss sustained as a result of being denied the right to work his regular assignment for the period between August 14, 1950 and September 6, 1950, inclusive; and

(c) He shall be allowed interest at the rate of one-half of one percent per month for all monies withheld by management through their arbitrary action in suspending him from service for fifteen (15) working days, commencing August 14, 1950 to and including September 6, 1950.

OPINION OF BOARD: Claimant was charged with rule violation in not handling money and valuable under hand to hand signature in failing to compare and check items against transferring employee's register and in failing to notify Management of conduct of another employee prejudicial to the interest of the Company. After formal investigation he was suspended from service for 15 working days.

Claimant was relief money clerk and there was no irregularity of procedure except that on Saturday and Sunday morning on which days he relieved Night Money Clerk Tony Fries it appears that the latter failed to submit or prepare or wait for Claimant to prepare receipts for or fully check over the moneys and valuables delivered to him, or fully to verify the shipments against the waybills. As a result hand to hand check was not made nor receipt taken nor did Claimant take possession of bills and register forms or compare and check each item on registry sheet, all as required by the specific rule applicable.

Claimant's only explanation for the rule violation was that Fries repeatedly refused to carry out the provisions of the rule so that it was impossible for Claimant to comply and that Claimant was afraid of reprisals if he reported Fries' rule violation.

Another rule provided that employees aware of conduct prejudicial to the interests or good name of the Company, on the part of another employee, should promptly report same to agent or superintendent. Without explaining how far such rule would require employees to spy out and report on irregularities of their fellows, we must hold that where actions of another employee prevent one from performing duties required of him and important for the interests of the employer, it is his duty both to himself and to the employer to report such conduct. On failure so to do he is subject to discipline under said rule.

The traffic handled by Claimant as was testified by him might run to a value of \$100,000.00 on an eight-hour shift. Meticulous care in handling such valuables is essential and failure therein by one employee does not excuse serious rule violation by another. Under the circumstances the penalty of 15 days suspension was not arbitrary nor capricious.

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 the Employees involved in this dispute are respectively Carrier and Employees 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 the claim should be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 30th day of March, 1953.