

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, 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, Incorporated and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, effective September 1, 1949, was violated at the 16th Street Depot, Oakland, California Agency in the treatment accorded Adjuster-General Clerk W. T. Rowland as a result of an alleged investigation conducted October 8, 1951; and

(b) The record shall be cleared of the charge made against him on October 5, 1951 and he shall be compensated for wage loss sustained retroactive to and including October 10, 1951.

OPINION OF BOARD: Evidence that the automobile operated by claimant struck the rear end of another automobile which had stopped for a red signal is a proper basis for upholding a charge of careless operation of a Company vehicle. Thus the request to clear claimant's record of that charge is without merit.

With respect to the claim for reparation it is noted that the Company, by its letters of March 6, 1952 and April 1, 1952, offered to restore claimant to his position without reparations providing physical examination under Rule 98 disclosed that he was competent to operate a Company owned motor vehicle. The General Chairman's letter of April 4, 1952 which accepted the proposal for a physical examination without any reservation on the subject of reparations must be considered as an acceptance of the offer made by the Company. Hence the claim for reparation is without merit.

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 19th day of January, 1954.