

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

LeRoy A. Rader, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES**
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 in the Western Texas Seniority District in the treatment accorded Tom Peoples by dismissing him from service as a result of an alleged investigation conducted on November 9, 1951; and

(b) He shall be returned to service with seniority rights unimpaired and compensated for salary loss sustained retroactive to and including October 31, 1951.

OPINION OF BOARD: A review of the evidence taken at the hearing in this case leads the Board to the conclusion that Claimant was given a fair trial and that there was evidence of a substantial nature given therein to warrant the disciplinary action taken by Carrier as against Claimant. We are not the judge of the credibility of the witnesses, and the evidence taken supports the charge and there is no showing that those testifying against Claimant were prompted by malice or ill-will against him.

On the proposition that the provisions of Rule 29 were not complied with, we likewise are not in agreement with Petitioner's claim that the same was violated by reason of the notice not containing advice as to the names of the witnesses who would appear against him. Claimant was sufficiently advised by the notice of the charges which were to be investigated at the hearing. We find no requirement in Rule 29 that the names of witnesses be furnished to the employee charged as herein, prior to the hearing. The rule requires Carrier to furnish statement of charges made and this requirement was here met by the notice given, as were the other essential requirements set out in the rule.

We find no reason to substitute our judgment for that of the Carrier in this case, as we do not believe the action taken was either arbitrary or capricious under the evidence submitted.

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 claims should be denied.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Signed) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 14th day of May, 1954.