

Award No. 9623
Docket No. MS-11741

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

ELDON L. JOHNSON

**CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD
COMPANY**

STATEMENT OF CLAIM: Petitioner has been employed by Employer for approximately eight and one-half (8½) years and at time of his dismissal was employed by Employer as a signal maintainer at an hourly rate of \$2.536 per hour. That on or about September 2, 1959 petitioner was illegally discharged from his said employment by Employer. That this discharge was supposedly based on a claimed failure by petitioner to comply with safety rules of the Employer. That there has never been any proof of the so-called violations claimed by Employer. That an award is desired upon the following facts:

- a) Failure by Employer to properly notify Employee of claimed violations.
- b) Failure by Employer to give Employee a proper opportunity to defend himself against Employer's charges.
- c) Dismissal not based on proper evidence.
- d) Illegal dismissal of Employee.

OPINION OF BOARD: The record in this docket shows that the claim stated here was not handled in the usual manner as provided in Section 3, First (i) of the Railway Labor Act, as amended; therefore, the claim will be dismissed.

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 Employee involved in this dispute are respectively carrier and employee 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 for the reason stated in the Opinion the claim will be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 2nd day of November, 1960.