

Award No. 10942

Docket No. SG-10781

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Preston J. Moore, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

THE KANSAS CITY SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Kansas City Southern Railway Company that:

(a) The Carrier violated the current Signalmen's Agreement, particularly Rule 77, when it assessed discipline against Assistant Signalman L. A. Gandy, Pittsburg, Kansas, following an investigation held on October 28, 1957, at which he was charged with the violation of motor car rules No. 19-a, 19-c, 19-f, and 20-h of Maintenance of Way Rules.

(b) The Carrier now be required to compensate Assistant Signalman L. A. Gandy for all time lost (five working days) as a result of the unwarranted discipline rendered and also clear his personal service record of this unjust charge. (Carrier's File No. 013.31-28 — PR)

OPINION OF BOARD: This dispute is between the Brotherhood of Railroad Signalmen of America and the Kansas City Southern Railway Company.

On October 10, 1957, a motor car operated by R. Sanders, Relief Signal Maintainer, and the Claimant was overtaken and struck by Carrier's freight train. Both men were given hearings and discipline assessed. The Claimant contends that the Carrier did not comply with Rule 77, and that Claimant did not violate the rules.

"RULE 77

"An employe who has been in service more than sixty (60) days or whose application has been formally approved shall not be disciplined or dismissed without investigation, at which investigation he may be represented by a duly authorized representative of the organization or by an employe of his choice. He may, however, be held out of service pending such investigation. At least forty-eight (48) hours prior to the investigation, he shall be advised of the precise charges against him, and shall

have a reasonable opportunity to secure the presence of necessary witnesses and representative. The investigation shall be held within ten (10) days of the date when charged with the offense or held from service. A decision will be rendered within ten (10) days after the completion of investigation. If a transcript of investigation is made a copy of same will be furnished the employee or his representative."

The Carrier obviously complied with this rule. The Claimant violated Rule 19(c) and Rule 138.

"RULE 19(c)

"Before leaving assigned starting place, Foreman and other employees responsible for operation of motor cars shall, when practicable, secure from telegrapher, in writing, information showing the approximate time of arrival at the station at which information is secured, of each train moving at that time which may arrive within one and one-half hours after issuance of order by the telegrapher. Additional line-ups must be obtained as often as necessary. Original line-ups must be kept on file for future reference. This information is for use in planning work in such a way as to minimize delay to traffic, and not as authority to occupy the main track. Main track may be occupied by track cars only by full compliance with all rules. . . ."

"RULE 138

"When a hand car or motor car is occupied by two or more men at least one man must face to the rear and a sharp lookout for trains must be maintained in both directions."

For the foregoing reasons, we believe the Agreement was not violated.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing:

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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 5th day of December 1962.