

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

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**PARTIES TO DISPUTE:**

**WARREN M. BARNETT**

**MISSOURI PACIFIC RAILROAD COMPANY**

**STATEMENT OF CLAIM:** The question involved is concerning the firing of Warren M. Barnett from his job in violation of Rule 18 of the Clerks' Agreement with the Missouri Pacific R.R. Company.

Barnett was not given a fair, complete, or impartial investigation. The Carrier closed the investigation abruptly while my Union representative Mr. Ralph C. Robertson, was questioning a carrier witness. Carrier did not allow Mr. Robertson the opportunity to complete his interrogation of company witnesses and also was not allowed the opportunity to present witnesses in the defense of Barnett who was fired for allegedly violating **extremely petty instructions**. Barnett has been held from the service of the carrier since November 15, 1960. The carrier did not render a decision on the first investigation that it held November 21, 1960 and closed also in violation of Rule 18. A second investigation was held in March of 1960 and the Carrier closed it also in violation of Rule 18, however it did render a decision and decision was appealed in accordance with the Agreement and is not presented to your board."

**OPINION OF BOARD:** The record reveals that, subsequent to Award 10318, an investigation was started on February 28 and terminated on March 2, 1962, because of alleged improper conduct of Claimant's Representative. On March 6, 1962, Carrier offered to reconvene the investigation on March 12, 1962, upon Claimant's assurance that he would be governed by "fair and impartial rules" in the conduct thereof. However, Claimant rejected such offer and advised that he would "accept a decision within seven days of the closing of the investigation of March 2, 1962." On March 8, 1962, Claimant was dismissed from Carrier's service.

After a careful review of the entire record, including the transcript of the investigation, the Board finds that Carrier's dismissal of Claimant was justified under the circumstances. For that reason, the Employee's claim will be denied.

In view of this, the Board does not find it necessary to comment on other issues raised by the parties.

**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 Employe involved in this dispute are respectively Carrier and Employe 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 28th day of February 1963.