

Award No. 11524

Docket No. CL-13929

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Charles W. Webster, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

JACKSONVILLE TERMINAL COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5298) that:

1. The Agreement governing hours of service and working conditions between the parties was violated by the Carrier at Jacksonville, Florida, on March 19, 1962, in the treatment accorded James Boddie, Baggage and Mail Tractor Driver, in dismissing him from the service, and
2. That James Boddie shall be restored to the service with all rights unimpaired and compensated for all wage loss sustained beginning March 20, 1962, and subsequent thereto until restored to the service.

OPINION OF BOARD: This is a discipline case. The Claimant was employed in Carrier's Baggage and Mail Department. On March 10, 1962, the Carrier's General Baggage and Mail Agent sent the following notice of formal investigation to the Claimant:

"You are hereby instructed to be in my office at 3 o'clock P. M. Tuesday, March 13th, 1962, for formal investigation wherein you are charged with making false statements in violation of Rule H of General Rules, upon the allegations that in failing to protect your assignment Monday, February 5th, 1962 you made false statement to General Foreman L. G. Carroll, Jr., when you told him you had to attend court on February 5th, 1962; and you further made false statements to Assistant Agent A. F. White when you told him you had to attend circuit court on February 5th, 1962 and that you had received a summons to attend circuit court on February 5th, 1962.

"If the charge against you should be proven in this investigation you will be subject to discipline.

"You may present witness or witnesses and have a representative in accordance with your Work Agreement."

The formal investigation was held on March 13, 1962, and a transcript of that investigation has been made a part of the record in the docket. The Claimant was present at and participated in the investigation, and was represented by the Local Chairman of the Organization. A review of the transcript of the investigation shows that it was conducted in a fair and impartial manner, and so acknowledged by the Claimant and his representative.

The transcript of the investigation contains substantial evidence to support the charge. While the statement of the Claimant is in conflict with other statements, this Board has consistently held that it will not attempt to resolve conflicts in testimony.

Based upon the entire record, the Board does not find the action of the Carrier in dismissing the Claimant from service as arbitrary, capricious, or in bad faith. The claim will, therefore, be denied.

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 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 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 14th day of June 1963.