

Award No. 11623

Docket No. SG-13663

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CLINCHFIELD RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Clinchfield Railroad that:

The Carrier violated the current Signalmen's Agreement when it dismissed SC&E Man W. G. Whitlock on charges that were not sustained by the Carrier; claimant Whitlock's record be cleared of the charges and that he be afforded the other rights to which he is entitled to under the current Signalmen's Agreement.

[Carrier's File: Signalmen]

OPINION OF BOARD: This claim arises out of the dismissal from Carrier service of employe Whitlock for disciplinary reasons. It is urged by employe and strongly resisted by Carrier that Claimant was dismissed on charges not sustained by Carrier.

Carrier further asserts that the claim should be dismissed by the Board for the reason that it has not been handled on the property level in accordance with the requirements of the Agreement by the parties as set forth in Article V of the May 20, 1955, Agreement. (Identical to Article V of the August 21, 1954, National Agreement.)

The Organization on behalf of employe alleges a violation of Rule 50(c) of the Agreement effective July 1, 1950, as amended, by the Carrier. The record shows that after proper notice, an investigation was held on March 12, 1962, and on April 15, 1962, Claimant was advised by Carrier that the charge was sustained and his services were terminated as of April 6, 1962.

On April 18, 1962, the General Chairman advised the Carrier's highest officer that the records do not "substantiate the charge" and "requested a meeting to discuss this matter further." On June 11, 1962, the Carrier's officer replied and advised the General Chairman that the charges against Claimant were proved and furthermore, that the attempted handling by the General Chairman was not in accordance with Article V of the May 20, 1955, Agreement. A conference was had and thereafter further correspondence of rejection by the Carrier's officer.

The record shows that the General Chairman of the Organization, without rejecting the Chief Engineer's decision, also bypassed him and addressed an appeal to the Carrier's highest designated officer, making no claim, but asserted "The records do not substantiate the charge." This is contra to Section 1(b) of Article V of the May 20, 1955, Agreement.

We agree with Carrier's position that provisions of Article V of the May 20, 1955, Agreement, are applicable to discipline cases and superseded the previously existing appeals procedures set forth in the discipline rules.

That principle has clearly been enunciated in Awards 3618, Second Division, 8475, 8712, and 9444, Third Division. Under such circumstances, it is not necessary to consider other issues.

Accordingly, the claim must 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 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 claim is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of July 1963.