

Award No. 13458
Docket No. CL-13205

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

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

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Pere Marquette District)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5131) that:

- (1) Carrier violated the Clerks' Agreement when it disciplined Clerk Stanley Molenda without a fair and impartial hearing.
- (2) Clerk Stanley Molenda shall have his record cleared of 30 days' actual suspension imposed on March 29, 1961.
- (3) Claimant Molenda shall now be reimbured for all wage loss sustained as a result of his improper suspension.

OPINION OF BOARD: The issue in this case is whether the written notice of charges against Claimant were specific and precise enough to enable him to prepare his defense. According to the Organization, they were not, and Claimant was, therefore, denied the fair and impartial hearing required by Rule 22 of the Agreement between the parties.

In a letter, dated February 28, 1961, notifying the Claimant of the hearing, the charges are stated as follows:

"You are charged with conduct unbecoming an employe and with insubordination to a supervisory officer at Chesapeake & Ohio Railway Company in Agent's office East Buffalo, New York, February 25, 1961."

Examination of the transcript of the hearing convinces us that the notice was specific and precise enough so that Claimant understood from it what the incident was which was the basis for the charges. There is no evidence that lack of further detail prevented him from preparing as adequate as possible a defense: Claimant and two witnesses brought with him testified in his behalf; he was represented, at his request, by General Chairman

Lazar; neither Claimant nor the General Chairman requested time to prepare additional material for the defense; nor did either indicate any relevant specific of which he became aware for the first time at the hearing, the lack of which prejudiced Claimant's ability to prepare a defense. The transcript also shows that Carrier's decision that Claimant was guilty was neither arbitrary nor capricious, and the penalty imposed was not beyond reason.

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 Employes involved in this dispute are respectively Carrier and Employes 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 8th day of April 1965.