

Award No. 14935
Docket No. TE-15878

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Pennsylvania Railroad, that:

1. W. W. Goldberg was denied due process when he was dismissed from the service of the Carrier for incident on September 8, 1964 when the Carrier failed to notify him in advance in writing of the exact offense for which he was to be tried as provided in Regulation 6-C-1(a).

2. W. W. Goldberg is not guilty of the charges and the dismissal is arbitrary, unwarranted and excessive.

3. The Carrier shall restore W. W. Goldberg to the service of the Carrier with seniority and all other rights unimpaired and pay him for all time lost and expenses incurred beginning September 8, 1964 until restored to the service.

OPINION OF BOARD: The record contains evidence that Claimant Goldberg erred in trusting visual observation to establish clearance of a train on rusty rail. The penalty of dismissal, however, under all of the circumstances revealed by the record appears to be excessive.

It is our judgment that Claimant Goldberg be reinstated to his position with all rights unimpaired, but without compensation for time lost.

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 penalty of dismissal from service was too severe.

Claimant reinstated with all rights unimpaired, but without compensation for time lost.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 16th day of November 1966.