



Award No. 15059
Docket No. TE-16260

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Chicago and Eastern Illinois Railroad, that:

1. Carrier violated the Agreement, Rule 24 and related rules, when it dismissed Gene Crowell without a fair and impartial hearing, and failed to consider or reply to his letter of appeal of July 29, 1965, within the time specified by the rules.
2. As a consequence of the violation set forth above, the Carrier shall be required to reinstate Gene Crowell with all rights restored, and compensate him for all wages lost and expenses incurred, beginning June 29, 1965.

OPINION OF BOARD: This is a discipline case in which Claimant was held out of service for alleged violation of Carrier's Operating Rules. In compliance with Rule 24 (c) of the Agreement Claimant was notified by letter dated July 1, 1965, that the investigation was scheduled for July 6, 1965. Because Claimant requested that he be marked off sick, the hearing was postponed pending his recovery. When advised that Claimant would be able to attend, Carrier set the hearing for July 16, 1965 at 12:30 P.M. Claimant made no request for further postponement. He failed to appear. Appearance was entered by the Local Chairman who was afforded full opportunity to adduce evidence and examine witnesses called by Carrier. Upon the record made, Claimant was found guilty of violating Operating Rules 700 and 701 and he was dismissed from service. Subsequently Claimant stated that he did not appear "because it was called at a time which is for me and many others lunch time."

From our study of the transcript of the hearing and the record as a whole we find that: (1) Carrier satisfied due process requirements; (2) the finding of guilt is supported by substantial evidence; and (3) the discipline imposed — dismissal from service — was not unreasonable. We will deny the Claim.

Inasmuch as Section 2, First of the Railway Labor Act charges "employees" with the duty to "maintain agreements" we are of the opinion

that an employe who fails to appear at a hearing, in the absence of good cause, is derelict.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 15th day of December 1966.