

Award No. 15410
Docket No. TE-14369

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

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

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago, Rock Island and Pacific Railroad, that:

1. Carrier violated the Agreement between the parties when it without just cause suspended R. J. Willett from service for a total of ninety days.
2. Carrier shall be required to clear R. J. Willett's personal record of all reference to the investigation held on August 10, 1962 and of all incidents which led thereto.
3. Carrier shall be required to compensate R. J. Willett for all wages lost, beginning as of the first day suspended from service and continuing until reinstated to service on his regular position.

OPINION OF BOARD: This is a disciplinary case, wherein Claimant after an investigation, was suspended from service for a period of ninety days. The No. 8 train of Carrier was delayed several minutes because of a switch over from a side rail to the main line. Carrier maintains Claimant violated Rules 375 and 402 of the Uniform Code of operating Rules. Petitioner contends that Rule 451 of the Uniform Code of Operating Rules would apply at all points except within yard limits as provided in the wording of Rule 451, thus relieving Claimant of any responsibility in the instant case.

We, for the purposes of this award need not decide which operating rules were applicable. A careful review of the record presented and the hearing conducted, reveals that Carrier has not presented that requisite body of evidence to enable us to support their position. The burden of proof is on the Carrier in cases of this nature. We accordingly sustain the Claim.

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 Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of March 1967.