



**Award No. 15565**  
**Docket No. TD-16181**

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**THIRD DIVISION**

**Edward A. Lynch, Referee**

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**PARTIES TO DISPUTE:**

**AMERICAN TRAIN DISPATCHERS ASSOCIATION**  
**SOUTHERN RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the American Train Dispatchers Association that:

(a) The Southern Railway Company, (hereinafter referred to as "the Carrier"), violated the existing Agreement between the parties, Article 10 thereof in particular, because of failure to accord Train Dispatcher E. M. Brandon (now deceased) a fair and impartial hearing meet the burden of proof in establishing the charge made against him, and render timely decision, all as required the said Article 10 of the Agreement.

(b) Because of said violation of the Agreement the Carrier be required to compensate the widow of Claimant Brandon, Mrs. Katie M. Brandon, for all compensation lost by Claimant Brandon from date suspended from Carrier's service, on or about November 16, 1964, until the date of his death, April 1, 1965; and that the individual Claimant's record be cleared of the charge involved.

**EMPLOYES' STATEMENT OF FACTS:** There is an Agreement in effect between the parties, copy of which is on file with this Board, and the same is made a part of this submission as though fully set out.

Article 10, particularly material to the claim here before the Board is quoted in full for the Board's ready reference:

**"DISCIPLINE**

(a) A train dispatcher shall not be disciplined, demoted, or discharged without proper hearing as provided in the following sections. Suspension pending a hearing shall not be deemed a violation of this principle.

(b) A train dispatcher, liable to disciplinary action, shall be given a written statement of the charges against him and shall be given a fair and impartial hearing by the Superintendent or his designated representative, within ten (10) days from date of suspension, or from date of filing charges if there is no suspension (in any event, the

Association's General Chairman and Carrier's Director of Labor Relations, following which on December 10, 1965 Carrier's Director of Labor Relations wrote the Association's General Chairman as follows:

"In our conference on December 10 we discussed the claim on behalf of E. M. Brandon, former train dispatcher, Macon, Georgia, who, as evidenced in the record, committed suicide on April 1, 1965 before investigation in connection with the charges against him could be completed. In these circumstances and based on the evidence of record, there is no basis for the monetary claim which you have attempted to assert. I therefore confirm my previous declination of the same."

On December 11, 1965 the Association's General Chairman addressed the following letter to Carrier's Director of Labor Relations:

"Regarding conference held in your office yesterday December 10th, 1965 with you and Mr. M. G. Stevens, myself and Vice President V. F. Williams of this organization on your file TD-21356 claim on behalf of former dispatcher E. M. Brandon, Macon, Georgia.

You advised us in this conference you were not agreeable to paying Mr. Brandon anything on this claim and were denying our claim.

Please be advised that this matter is being referred to Mr. R. C. Coutts, President of this organization for handling under the Railroad Labor Act as amended to the National Railroad Adjustment Board, or as he deems necessary." [sic]

Court records at Macon show that neither Brandon nor his attorney entered any plea on March 19 or March 26, the Fridays set aside by the Recorder's Court in Macon for accepting pleas of guilty, and that the cases were closed after Brandon committed suicide on April 1, 1965.

Court records in Macon do not reveal why Brandon or his attorney failed to come in and enter a plea on Friday, March 19, the date Brandon's attorney had informed the Court that he would enter a guilty plea on behalf of his client. However Court officials state that it is not uncommon for this to occur as all attorneys try to collect their fees in full before final disposition is made of a case. It is therefore assumed that Brandon had not paid his attorney and the Court was going along with the attorney giving him time to make collection.

**OPINION OF BOARD:** The claim before us in this Docket is predicated on Carrier's exercise of its right to discipline.

The Carrier's employe here involved took his own life April 1, 1965. The incidents from which Carrier's charge of violation of Rule G ensued began November 16, 1964. There were several of them.

Irrespective of the merits, the claim of the Organization is that the Carrier be required to compensate "the widow of Claimant Brandon (now deceased) . . ."

Mrs. Brandon or, as Organization prefers, "the widow of Claimant Brandon" is not an employe of this Carrier and, therefore, is not a proper claimant.

We agree with argument presented in behalf of the Carrier that we lack jurisdiction and this Claim will be dismissed. In so holding we intend no judgment on such rights as his widow may otherwise have before a court of law growing out of Brandon's employment relationship with this Carrier.

**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 Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board does not have jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

#### AWARD

Claim dismissed for lack of jurisdiction.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 12th day of May 1967.