

Award No. 15932
Docket No. TE-16532

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

George S. Ives, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

NEW YORK CENTRAL RAILROAD
(Southern District)

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the New York Central System (Southern District), that:

1. Carrier violated the agreement in dismissing William M. Carroll from service effective February 2, 1966.
2. Carrier shall reinstate William M. Carroll with full seniority rights and vacation rights, that his record be cleared of the charges and that he be paid for all time lost.

OPINION OF BOARD: Claimant was assigned to the third trick operator position at "CD" office, Columbus, Ohio, when he was dismissed from the service of the Carrier for violating Operating Rule No. 722, which reads as follows:

"722. The business affairs of the railroad must not be divulged except to proper officials."

It is undisputed that Claimant addressed a letter, dated December 21, 1965, to Carrier's Division Superintendent complaining of various matters, including office conditions where he worked, facilities at other points and the alleged inefficient and unsafe operations of the railroad at various points on the system. Collateral matters also were referred to in Claimant's letter such as the conditions of certain signals, recording of train movements in Columbus Yard, the control of certain switches, operating instructions and facilities at other yards.

Copies of Claimant's letter were sent to other Carrier officials, Claimant's attorney, the Chief Inspector of the Public Utilities Commission of Ohio and the District Director of the Interstate Commerce Commission.

Petitioner asserts that Carrier has failed to prove that Claimant improperly divulged privileged information to other than proper officials of Carrier in violation of Operating Rule No. 722 and that Claimant did not receive a fair and impartial hearing.

Pursuant to Article 8 of the Agreement, a hearing was held upon due and sufficient notice of the charges against the Claimant. The record discloses that he was afforded an opportunity to present his case fully and that he was represented in accordance with his right to representation. The gravamen of Petitioner's complaint is that Carrier has failed to prove that the mere sending of copies of Claimant's letter of December 21, 1965 to outside parties constitutes a violation of Operating Rule 722.

A careful analysis of Claimant's letter reveals several items that are completely unrelated to Claimant's particular working conditions. Moreover, such charges concern Carrier's general operations which fall within the purview of "business affairs." Although the disclosure of such extraneous matters by Claimant to his attorney might be excusable under the circumstances here involved, the reporting of such charges to state and federal officials in the first instance clearly violates the apparent intent of Operating Rule No. 722. Furthermore, Claimant's failure to report such unsatisfactory conditions to the Carrier before disclosing them to public officials constitutes a breach of loyalty, which is inherent in sound employer-employee relations. It is well established that "an employee who fails to fulfill his fundamental obligations to his employer subjects himself to disciplinary action." Award 2496 (Carter). Accordingly, the Claim will be denied. Awards 10930, 8711, 4855 and 2496.

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 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 10th day of November 1967.