

Award No. 16115
Docket No. CL-16850

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6177) that:

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, particularly Rules 6-A-1 to 7-A-1, inclusive, when it imposed discipline of dismissal upon Hubert Summers, Crew Caller, Hawthorne Yard, Indianapolis, Indiana, Southwestern Division, effective July 24, 1965.

(b) Discipline of dismissal from service imposed on Hubert Summers be removed from his service record.

(c) Hubert Summers be compensated in accordance with Rule 7-A-1(d) for all monetary loss sustained from July 24, 1965. (Docket 1890)

OPINION OF BOARD: This is a disciplinary case in which the employees contend inter alia that the charge was vague and general, and as such, was in violation of Rule 6-C-1(a), which reads as follows:

"RULE 6-C-1.

(a) An employee who is accused of an offense and who is directed to report for a trial therefor will be given reasonable advance notice in writing of the exact charge for which he is to be tried and the time and place of the trial."

The Claimant was charged with the following offense:

"Violation of Rule No. 8 of the General Rules for the Pennsylvania Railroad, while traveling as a passenger on Train No. 32 from East St. Louis, Illinois to Terre Haute, Indiana, July 23, 1965."

Rule 8 reads as follows:

"To enter or remain in the service, employees must be of good moral character, and must conduct themselves at all times, whether on or off Company property, in such manner as not to bring discredit upon the Company."

We cannot agree with the employees in this case that the charge was too vague and too general. To be sure, the charge must be specific enough to apprise the individual of the subject matter to be investigated, so that he might prepare an adequate defense by not only his own testimony, but also by the summoning of additional witnesses to testify in his behalf. The charge need not have that degree of specificity normally associated with a criminal indictment. We agree with Carrier that the charge complied with Rule 6-C-1(a) quoted infra.

Other questions as propounded by the Organization are: "Whether or not Claimant was guilty of the offense with which charged, whether or not he had a fair and impartial trial, whether or not the discipline imposed was warranted, even if he were guilty, and whether or not his record should be cleared and he be compensated for all monetary loss sustained as provided in the applicable rule."

We have received the transcript of the investigation and conclude from a review thereof that the Claimant did, in fact, receive a fair and impartial trial. He was confronted with his accuser, permitted to cross examine him and all other hostile witnesses. He was permitted to testify on his own behalf and submitted himself to cross examination. The evidence as submitted by all witnesses can be and was categorized as sufficiently substantial to warrant a finding of guilty as charged. Nor can we find that under the circumstances the discipline imposed constituted an unreasonable abuse of discretion on the part of management. The cases and precedents supporting these fundamental principles are too numerous to cite in this Opinion. For the foregoing reasons, the claim is denied.

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 1st day of March 1968.

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