

Award No. 16816
Docket No. CL-17569

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David H. Brown, Referee

PARTIES TO DISPUTE:

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

THE WESTERN PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6414) that:

1. The Carrier violated the rules of the Agreement extant between the parties when it withheld Mr. Albert B. Tedd from service and subsequently dismissed him on January 10, 1967, following investigation held on January 4, 1967.
2. Mr. Albert B. Tedd be allowed a day's pay for each day he was improperly held out of service during the period January 6, 1967, to and including June 25, 1967.

OPINION OF BOARD: This is a discipline case. After an investigation was held, Claimant Albert B. Tedd was discharged on January 10, 1967. However, on June 26, 1967, he was re-instated. The issue before the Board is thus whether or not the facts and circumstances justify suspension of Claimant during the indicated period. Since the original discharge evolved as a suspension only, we shall hereinafter refer to it as such.

The suspension resulted after a formal investigation conducted on January 4, 1967. Notice to Claimant advised him such investigation was to be held "to determine facts and place responsibility for your allegedly being absent without proper authority from November 7, 1966 to December 12, 1966." The discharge letter of January 10 advised Claimant his termination resulted from such unauthorized absence from duty.

The Organization questions the sufficiency of the investigation, contending that the notice to Claimant did not allege with particularity the charge against him. We believe the record clearly reflects that Mr. Tedd received fair and adequate notice and that the investigation was fairly conducted.

The investigation established that Claimant was absent without proper authority. Discharge or suspension was therefore proper discipline unless

there were extenuating circumstances to excuse his absence. We find nothing in the record that would warrant our faulting management's exercise of its prerogative.

Failing to find that the Carrier acted unreasonably, arbitrarily or unfairly, we deny 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 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 19th day of December 1968.