

Award No. 16886
Docket No. TD-17175

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Jerry L. Goodman, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

ERIE-LACKAWANNA RAILROAD COMPANY

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

(a) The Erie-Lackawanna Railroad Company (hereinafter referred to as "the Carrier"), violated the existing Agreement between the parties, Article 7 thereof in particular, by its action in imposing discipline upon Train Dispatchers A. J. Gibson and C. W. Arnold, based upon charges made against them on September 19, 1966, and hearing held pursuant thereto.

(b) The Carrier shall be required to rescind the disciplinary action referred to in paragraph (a) above and clear the records of Claimants Gibson and Arnold with respect thereto.

(c) The Carrier shall additionally be required to restore Claimant Gibson to Carrier's service with all rights unimpaired and to compensate him for wage loss in accordance with the provisions of Article 7 of the Agreement.

OPINION OF BOARD: Claimants, Dispatchers A. J. Gibson and C. W. Arnold are here seeking rescission of disciplinary action imposed on them by the Carrier as the result of an accident which occurred on September 15, 1966. Claimant Gibson was removed from service. Claimant Arnold was given a five-day deferred suspension.

A review of the record supports Carrier's determination that Claimants violated certain operating rules as charged at the investigation and for which they were disciplined.

However, the facts of this case indicate there were extenuating circumstances which should be taken into consideration in imposing discipline.

In considering these extenuating circumstances, we believe that Claimant Gibson should be restored to service with the time he has lost since dismissal serving as discipline for the offense committed. However, we believe that the discipline imposed on Claimant Arnold was appropriate for the offense he committed.

Therefore, Claimant Gibson will be returned to service with seniority unimpaired but without pay for the time lost as a result of his dismissal. The discipline imposed on Claimant Arnold is upheld as being appropriate for the offense he committed.

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 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 has jurisdiction over the dispute involved herein; and

That the Agreement was violated to the extent indicated in the Opinion.

AWARD

Claim sustained to the extent indicated in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of January, 1969.