



Award No. 17092

Docket No. MS-17828

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**John B. Criswell, Referee**

**PARTIES TO DISPUTE:**

**KATHERINE M. FONTANA**

**THE LONG ISLAND RAIL ROAD COMPANY**

**STATEMENT OF CLAIM:**

- (1) That despite the fact as is shown by minutes of a hearing held at Jamaica Station Long Island was not present; a hearing was held at which no testimony of Katherine M. Fontana was heard and upon the unchallenged testimony of Respondent's agents, Katherine M. Fontana was dismissed after twenty-three years, lost her job, benefits, emoluments and seniority rights without due process of law.
- (2) That Katherine M. Fontana was advised that notice of hearing would be served upon her by mail and that when such service was not made she talked to Respondent's representatives who advised that mailing had taken place but acknowledged that a return receipt was not held by them but said that letter would come and hearing would be held—that letter was received and accepted on date of trial ten minutes before start of trial at an address that was not less than one and one-half hours traveling distance from place of trial.
- (3) That the over-all circumstances concerning the notice, trial and background give rise to the belief that it was not intended that Katherine M. Fontana would receive a trial on the merits.

**OPINION OF BOARD:** This is a discipline case. The record in this docket shows that Carrier terminated Claimant's employment relation with the Carrier account of violation of Rule E and 400N-21 of the Rules of the Operating Department while on duty as Block Operator at Van Block Station, June 15, 1967, and that the appeal therefrom is neither valid nor in compliance with either the handling set forth in Section 3, First (i) of the Railway Labor Act, as amended, or Rule 58 of the Agreement between the parties. Consequently, we have no alternative but to dismiss 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 re-

spectively 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.

**A W A R D**

Claim dismissed.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

**ATTEST: S. H. Schulty**  
**Executive Secretary**

Dated at Chicago, Illinois, this 30th day of April 1969.