

Corrected Copy



**Award No. 17102**

**Docket No. CL-17418**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION  
(SUPPLEMENTAL)**

**Gene T. Ritter, Referee**

**PARTIES TO DISPUTE:**

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

**CHICAGO UNION STATION COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6359) that:

1. The Carrier violated the Clerks' Agreement when on December 8, 1966, it suspended Mail Handler Sylvester Scott from service.
2. Carrier shall be required to compensate Mail Handler Scott for all wages lost as a result of that suspension.
3. Mail Handler Sylvester Scott's record shall be cleared of all charges which may have been recorded thereon as a result of the violation named herein.

**OPINION OF BOARD:** Claimant was working his assigned hours on December 8, 1966, sorting and loading mail onto chutes. He was called to work at a location called the "Glass House". At this location, conveyor belts were operating at various levels to carry mail to various locations within the mail terminal. On this date, a conveyor belt became overloaded and jammed. The Assistant Foreman ordered the Claimant and two other men to go down and break the jam. The Claimant refused giving as his reason the fact that he considered it dangerous and was in fear of bodily injury. This Claimant was suspended pending an investigation which was held on December 16, 1966. This investigation resulted in a reprimand and a 10 days suspension for Claimant. The transcript of the investigation discloses that the Mail Foreman had stopped the conveyor belt and that the safety was on. The Claimant contends that he was never informed of this fact, and, therefore, he was not required to undertake this mission because of his fear of bodily harm. The Organization cites Second Division Award 2540, Third Division Award 14067 and First Division Awards 14266, 15532 and 17398 as authority for Claimant's right to refuse the order of the Assistant Foreman.

The Carrier contends that the 10 days suspension was justified on the facts and circumstances surrounding this case and that this Claimant was insubordinate by refusing to obey an order. Carrier cites for authority Third Division Awards 1265, 1242, 1543, 3260 and 3340.

It is the opinion of this Board that the transcript discloses that although the Carrier did not inform this Claimant that the conveyor belt had stopped and could not run because the safety was on, that this should have been apparent to Claimant and could have been ascertained, if this fact alone bothered him, by a simple inquiry. As stated in Second Division Award 2134:

“An Employe must be obedient to the orders of his Superior regardless of what rights he may have under the provisions of his collective bargaining agreement. His failure to do so will make him subject to discipline for insubordination. If, in obeying such orders, any rights which he may have by reason of the provisions of the Agreement are violated, he can and must be redressed through the channels which the agreement provides for his protection. There are exceptions to these principles but the facts here presented do not have application thereto.”

The transcript further discloses that although this particular Claimant had not been called upon to break a jam prior to the date of this claim, the evidence further discloses that it was a common duty of mail handlers at this location to break jams when they occurred. The description of duties assigned to this type of job required this Claimant to be able to “operate controls of conveyor belt system when necessary”.

For the foregoing reasoning, this claim will be 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 Employes involved in this dispute are respectively Carrier and Employes 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.

#### A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of May 1969.