



Award Number 17479

Docket Number TE-15578

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Jerry L. Goodman, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYEES
UNION (Formerly The Order of Railroad Telegraphers)
SOUTHERN RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union (formerly The Order of Railroad Telegraphers) on the Southern Railway System, that:

1. Carrier violated the terms of the Telegraphers' Agreement, also the rights to due process, when on Wednesday, October 16, 1963, it dismissed Claimant G. W. McGarity, from the service of the company without just reason or cause.
2. Carrier shall now compensate Claimant G. W. McGarity for all time lost resulting from that erroneous dismissal, or one day's pay for October 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 28 and 29, 1963. A total of 12 working days, or \$244.92.

OPINION OF BOARD: Claimant, station agent G. W. McGarity, with twenty years of service, the last seven of which were as agent at Cornelia, Georgia, was charged with failure to remove placards from a freight car after unloading the shipments with which the placards were identified.

After a formal investigation Mr. McGarity was dismissed from the service of Carrier. Twelve days later he was restored to service without impairment of seniority rights, but without pay for the twelve working days he was out of service. The record does not contain any indication of previous disciplinary action against the Claimant.

Claim was duly filed in behalf of Mr. McGarity, alleging that his dismissal was without just reason or cause; that proof of guilt was lacking; that he was not accorded due process; that the Agreement was thus violated; and that he should be paid for the twelve working days he lost, the sum of \$244.92. Carrier denied the claim at all stages of handling, and the Employees submitted the dispute to this Board for decision.

We conclude, after a careful consideration of the entire record, that it supports the position of the Employees, and that the claim should be sustained.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon; and upon the whole record and all the evidence, finds and holds:

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of September 1969.