

**Award No. 18620**  
**Docket No. CL-18983**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Robert A. Franden, Referee**

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**PARTIES TO DISPUTE:**

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

**PENN CENTRAL TRANSPORTATION COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6833) that:

(a) The Carrier violated the Rules Agreement, effective February 1, 1968, particularly Rule 6-A-1, when it assessed discipline of dismissal on Carolann S. Bodnar, Key-punch Operator, Data Center, Central Region, Pittsburgh Division.

(b) Claimant Carolann S. Bodnar's record be cleared of the charges brought against her on April 23, 1969.

(c) Claimant Carolann S. Bodnar be restored to service with seniority and all other rights unimpaired, and be compensated for wage loss sustained during the period out of service, plus interest at 6% per annum compounded annually on the anniversary date of claim, April 23, 1969.

**OPINION OF BOARD:** This is a discipline case. The Claimant has first raised a procedural question as to whether the notice of the investigation issued by the Carrier met the requirements of Rule 6-A-1(b):

"(b) An employe charged with an offense shall be given written notice in advance of the investigation of the exact offense involved . . ."

The notice issued by the Carrier was as follows:

"Personal behavior detrimental to the operation of the Data Center."

We are mindful of the many cases decided by this Board which hold similarly to Award 12255 (Seff), "We have held that if a notice reasonably appraises an employe of the set of facts or circumstances under inquiry to provide an opportunity to prepare a defense and prevent surprises it is

sufficient." and Award 12898 (Hall), "The formation of a charge and the giving notice thereof need not be in the technical language of a criminal complaint. It is sufficient that the one charged understood he was being investigated for the dereliction of duty set forth in the notice."

It does not serve either of the parties well to turn cases on technicalities. However, the rules set forth in a negotiated agreement are there for a reason. In the instant case Rule 6-A-1(b) is obviously for the protection of the employee. We have not reached the point where the extant case law would support the notice given in this case as that required by the Rule.

There was no date set out in the notice. The actions which are the subject of this dispute took place far removed from the Data Center. The claimant was not working in the Data Center at the time of the alleged offense due to being on leave of absence for medical reasons. These facts taken together with the vague wording of the notice work against it being acceptable under Rule 6-A-1(b).

Further, on being asked if she had received notice of the investigation the claimant indicated she had but didn't understand it. It is possible, on reflecting over the past events that the claimant had a fair indication as to what the subject matter of the investigation would be. We cannot say, however, that the claimant was reasonably apprised as to what the offense charged sufficiently to permit her to prepare an adequate defense. To hold the notice given in this case sufficient would be tantamount to expunging the rule.

We will sustain the claim in all parts with the exception of the interest prayed for which we will deny.

**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.

#### **AWARD**

Claim sustained except as to interest.

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

**ATTEST:** E. A. Killeen  
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1971.

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