

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19310  
Docket Number MSX-19288

Paul C. Dugan, Referee

(William Evenger  
PARTIES TO DISPUTE: (  
(REA Express, Inc.

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex-parte submission on covering an unadjusted dispute between me and REA Express Inc. involving the question:

"I was accused on false charges by Mr. F. P. Stanton, Computer Operations Supervisor and Mr. S. Farkas the Manager of the same Department made himself a witness against me without being present at the scene. I was assessed five (5) working days off without pay."

OPINION OF BOARD: This is a discipline case in which Petitioner was given a 5-day suspension on charges of direct insubordination and abusive language toward his immediate supervisor. He is requesting the Board to reverse Carrier's decision and require Carrier to reimburse him for wage loss sustained.

We have carefully reviewed the contents of the Record in this dispute and have found that Carrier fully complied with the time limit provisions under Agreement Rule 11, that the investigation on the charges was held in a fair and impartial manner and that sufficient evidence was presented therein to substantiate the charges preferred against Claimant, Mr. William Evenger.

We cite with approval Award 13179 (Dorsey):

"In discipline cases, the Board sits as an appellate forum. As such, our function is confined to determining whether:  
(1) Claimant was afforded a fair and impartial hearing;  
(2) the finding of guilty as charges is supported by substantial evidence; and (3) the discipline imposed is reasonable.

We do not weigh the evidence de novo. If there is material and relevant evidence, which if believed by the trier of the facts, supports the finding of guilt, we must affirm the finding."

We will deny the claim.

Award Number 19310  
Docket Number MSX-19288

Page 2

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 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 Claim be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

E. A. Killen  
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1972.