

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20428  
Docket Number CL-20505

Joseph A. Sickles, Referee

(Brotherhood of Railway and Steamship Clerks,  
( Freight Handlers, **Express** and Station **Employes**)  
PARTIES TO DISPUTE: (  
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood  
(**GL-7429**) that:

1. The Carrier violated the Clerk's **Agreement, when it** suspended Clerk E. Vokral from actual service **12:01** A.M., October 1, to **12:01** A.M. October 6, 1972.
2. **Claim** that Clerk E. Vokral was **not** advised of the precise charge against him as required of Rule 25 of the agreement **between** the parties.
3. Claim **that** the investigation and decision **resulting** therefrom suspending him **from service** was therefore null **and** void.
4. Claim **that** Clerk E. Vokral be compensated the exact amount of his losses, or **any** and all wage Losses sustained, plus interest at the current rate, on the **amount** of reparations due.

OPINION OF BOARD: Rule 25 states, in pertinent part:

"An employe, charged with an offense, shall be furnished with a letter stating the precise charge at the **time** the charge is made...." (underscoring supplied)

After a thorough review of the record, the Board determines that the **single** issue presented for our **determination** is whether or not the September **25**, 1972 Notice of Investigation satisfied the **above** cited **Rule**. The Notice stated:

"Arrange to report to the Superintendent's Office, General Office Building, **6900 South** Central Avenue, at **9:30** A.M. on Thursday, September 28, 1972 for the purpose of ascertaining **the** facts and **determining** your responsibility, if any, in connection with you calling **and** placing **Yardman P. Robertson** on the **3:00** P.M. West Sub-Office **switchtenders assignment** on September 16, 1972 without sufficient time off duty for this **assignment**."

"If you desire a representative, please arrange."

Claimant contends **that** the Notice was improper because:

"**In** the instant dispute, Carrier's notice falls far short of being a clear and precise charge. **It** instructed Claimant to **report** for a hearing 'for the purpose of ascertaining the facts and determining your responsibility. if any.' It does not say to Claimant that it thought him guilty of **an** offense. On the contrary, the notice says, in effect, that the Carrier does not know who is responsible but intends to find out. In short, the effect of the notice was to tell **Claimant** that he would participate in a general inquiry rather than a trial."

Initially, we cite with favor Award 17837:

'That letter charged the Claimant with 'apparent violation.....'. **The** letter is not vague. The charge is adequately precise. Certainly, it is **more** reasonable to advise the Claimant of an 'apparent' violation. The evidence at the Bearing determines whether there was or was not a violation of the rule."

A Notice of Investigation is not a **criminal** complaint, **nor is** it designed to be a basis for technical loopholes **and/or** legalistic avoidance. Nonetheless, a Notice **must** advise a Claimant that he is subject to investigation for a dereliction of duty, and it must afford an opportunity to prepare a defense against the accusation. In short, a Claimant may not be **mis-**Lead by the Notice. See, for example, Awards 12898, 13969, 16344, 16637 and **17154**.

While **Claimant** did contend, at the **investigation**, that the Notice did not specify any charge, the record fails to **show that the** Notice violated the guidelines stated in the Awards cited above.

In this regard, we have fully considered Award 18606 concerning these **same** parties, **and** interpreting the same **Rule 25**. The Notice of Investigation under consideration in that Award was certainly no **more** specific than the Notice here under review. Citing a number of the Awards mentioned herein, the Board concluded that the **Claimant** was clearly advised of the specific or "precise" charge against him.

We are unable to find that Claimant did not understand the nature of the charges; **that** he was **mislead** or prejudiced; or that he was not able to prepare a defense. Further, we are unable to state that Award 18606 is palpably erroneous. We will deny 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 **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:

*A. W. Paulsen*  
Executive Secretary

Dated at Chicago, Illinois, this 27th day of September 1974.