

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20857
Docket Number CL-20783

William M. Edgett, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship
{ Clerks, Freight Handlers, Express and
{ Station Employees
(Robert W. **Blanchette**, Richard C. Bond, and
{ John H. **McArthur**, Trustees of the Property of
{ **PENN CENTRAL TRANSPORTATION COMPANY**, DEBTOR

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(CL-7571) that:

(a) The Carrier violated the Rules Agreement, effective February 1, 1968, particularly Rule 6-A-1, when it assessed discipline of dismissal on **Claimant** R. E. Morrison, Cashier in the office of Ticket Receiver in Washington, D. C., a part of the Carrier's System General Offices.

(b) Claimant R. E. Morrison be restored to service with seniority and all other rights unimpaired, and be compensated in the **amount** of any remuneration which may be due **him** in accordance with the provisions of Rule 6-A-1 (h).

OPINION OF BOARD: Claimant. was dismissed from Carrier's service after an investigation in which Carrier **determined** that he **was** guilty, as charged, of the removal of company funds. When Claimant reported for work, on February 26, 1973, he was advised that a check of his bank showed a shortage of \$293.00. A Traveling Auditor was **called** in and he audited Claimant's bank. His audit **confirmed** the shortage. Claimant signed two statements admitting that he had taken the **money** from **the** bank for his personal use. After the shortage was discovered, Claimant borrowed money from a member of his family for the purpose of restoring the missing **funds**.

At the investigation Carrier introduced two statements which Claimant had signed on the date that the missing funds were discovered. The import of those statements was that **Claimant** had taken the funds **for** his personal use and that after the shortage **was** discovered he arranged to place a check made out to the Railroad in his bank in order to make restitution. At the investigation he sought to modify the effect **of** his statements in order to base his defense on the assertion that he had left the check in his bank prior to the discovery **of** the shortage and that he was only using Carrier's funds to cash the check. Carrier did not accept that **explanation**.

The **Employees** assert that Carrier was in violation of the **rules** when it took Claimant's statements at a time when he was not represented and that he did not receive a **fair** and impartial investigation as provided by the Rules. The charge, **according** to the employees, is too **im-**precise to comply with the Rules. The charge clearly advised the Claimant of the subject matter of the investigation in a manner which permitted him to prepare his defense. The Rule does not require **more**.

The statements **made** by Claimant were made a matter of record at the investigation and objection was taken to the fact that Claimant made them at a **time** when he was not represented. This is not a case in which Claimant had requested and been denied representation. The record shows that Claimant signed the statements voluntarily and did not ask for an opportunity to consult with his representative **before** doing so. The statements were properly made a part of the record at the investigation. The Board's **review** of the entire record has not revealed any procedural infirmity or lack of fairness on the part of the investigating **officers**. The claim must 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 **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 not **violated**.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauline
Executive Secretary

Dated at Chicago, **Illinois**, this 14th day of November 1975.