

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20940
Docket Number MW-21141

William M. Edgett, Referee

(Brotherhood of Maintenance of Way **Employees**

PARTIES TO DISPUTE: (

(St. Louis Southwestern Railway Company

STATEMENT OF CLAIM: **Claim** of the System **Committee** of the Brotherhood that:

(1) The Carrier violated the Maintenance of Way Agreement, especially but not limited to, **Rule 6 - Discipline and Grievances**, when it failed to properly notify Laborer Mr. Earl Little of hearing to be held June 25, 1974; also hearing was not progressed properly and impartially (**System File S-74-94/PR-89707**).

(2) Laborer Mr. Earl Little be reinstated with all rights **unimpaired** and with payment for all lost earnings, including travel expense for June 11, 1974.

OPINION OF BOARD: **Claimant** was dismissed by Carrier on May 30, 1974. A hearing was requested **and** held on June 25, 1974. **He** did not attend the hearing and one of the Organization's defenses is that he was not properly notified of the date **and** time of the hearing. The record, however, does not support that contention. Claimant **was** notified by the regular mail at his current address that the hearing would be held on June 25 at 10:00 a.m. As it happened, the hearing was reset to 1:00 p.m. on the **same** date. Claimant did not appear at either time and the hearing was held without him **in** attendance. Following the hearing there was a suggestion that he had automobile trouble on that date but it is to be noted that he did not telephone Carrier, or his representative, on June 25 to seek delay or postponement in the hearing because of his alleged automobile trouble. The finding must be that Claimant was properly notified of the hearing and that he failed to appear.

The Organization also asserts that the hearing was not held within ten days of the request, as required by the **Rule**. The record shows that the Assistant General Chairman concurred with Carrier on the June 25 date and thereby waived any objection under **Rule 6-1**.

Carrier held a hearing, as provided by the **Rules**, and found Claimant guilty of the charges made against him. The Board finds that Carrier acted within the area of its authority and will not overturn the disciplinary action taken by Carrier.

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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 Agreement was **not** violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By **Order** of Third Division

ATTEST:

A. W. Paulose
Executive Secretary

Dated at Chicago, **Illinois**, this 30th day of January 1976,