

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20974
Docket Number CL-21043

Irwin M. **Lieberman**, Referee

(Brotherhood of Railway, Airline and Steamship
(Clerks, Freight Handlers, Express and Station
(**Employees**

PARTIES TO DISPUTE: (
(Indiana Harbor Belt Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(CL-78291 that:

(a) The Carrier violated the Rules Agreement, effective December 1, 1949, particularly Rule 36, when it assessed discipline of dismissal on **J. A. Natalie**, Yard Clerk at Blue Island, Illinois.

(b) Claimant **J. A. Natalie**'s record be cleared of the charges brought against him on November 5, 1973.

(c) Claimant **J. A. Natalie** 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 daily.

OPINION OF BOARD: Claimant, in this dispute, was discharged after an investigation, having been found guilty of failing to report to work or advise of inability to do so on November 3, 1973.

Petitioner appealed the decision emanating from the investigation to the next higher official and subsequently to the highest official designated by Carrier in timely fashion, as provided by Rule 36. It is noted that at each step the Organization appealed the decision and discipline and requested revocation of the discipline invoked. In the initial appeal letter, dated November 30, 1973, the Division Chairman stated:

"Claims will be filed to make whole any loss suffered by Mr. Natalie in connection with salary and all other benefits . . . **for** this alleged unsubstantiated infraction."

The record indicates that no such claims were filed. Rule 13 of the applicable Agreement provides for the procedure in handling claims and grievances on this property; and examination of that Rule verifies the fact (specifically in Sections 3 and 6) that it is applicable to claims arising out of disciplinary actions.

It is quite evident that the Claim presented herein is quite different than the appeal of the discipline handled on the property and further that the procedure outlined in Rule 13 was not followed in the processing of the dispute on the property. Although we prefer to dispose of disputes such as that herein on their merits rather than on procedural grounds, we are precluded from such action in this matter. Based on the fact that the Claim herein was not handled in accordance with Rule 13 or with Carrier's highest designated Officer, we are barred from consideration of the merits: the Claim was ~~not~~ handled in the usual manner as prescribed in the Railway Labor Act as amended (See Awards 15847, 10749, 20572 and many others).

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 is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1976.