

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21041
Docket Number SG21038

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Chicago and North Western Transportation Company)

STATEMENT OF CLAIM: Claims of the System **Committee** of the Brotherhood of Railroad Signalmen on the Chicago **and** North Western Transportation Company:

(a) On **August** 3, and August **11**, 1973 the carrier violated the current Signalmen's Agreement, **particularly** rule 60 (revised), during investigation of **Ldr. Signn., D. C. Stuckey**, and subsequent discipline assessed to him.

(b) Carrier be required to clear Mr. Stuckey's record and remove discipline wrongfully assessed to him.
/Carrier's file: D-9-30-g

OPINION OF BOARD: Subsequent to investigation, Carrier assessed a twenty **(20)** day deferred suspension against Claimant concerning an asserted failure to file, timely, an accident **report**. The Organization alleges **certain** defects in the handling of the investigation.

Rule 60 requires that investigations "**...will** be conducted by a supervising officer of the Signal Department.' In addition, the rule specifies that the investigation will **be** held within seven days from date of alleged offense or after information of the alleged offense has reached the supervisor - and that the **employee** will be advised of the supervisor's decision, in writing, within seven days after completion of the investigation. It is contended that **Carrier** violated each of these mandates

The transcript of investigation proceedings shows the following:

"Mr. Hansen /Claimant's Representative/

I feel this investigation should be **conducted by a** supervising officer of the Signal Department.

Mr. Maybee /Investigating Officer/

I am a Supervising officer of the Missouri Division with the **Signal Department** coming under **my** jurisdiction.

Mr. Hansen

The Signal Supervisor or his assistant should be conducting this investigation.

Mr. Maybee

Would you like to postpone the investigation?

Mr. Hansen

I don't feel we should postpone it, ~~we~~ have a Supervising **officer** of the Signal Department present.

Mr. Maybee

Just to keep the record clear Mr. Hansen it was stated earlier that Mr. Sorensen is **a** witness therefore he cannot **also conduct** the investigation and **be** the **interrogating** officer.

Mr. Hansen

Mr. ~~Morrill~~ is present in the building, he is the Assistant Signal Supervisor.

Mr. Maybee

We could **postpone** this investigation pending **Mr.** Snyder's return to ~~Oelwein~~ or we could continue it and I would conduct the **investigation.**

Mr. Hansen

We have come one hundred and fifty ~~one~~ miles and I don't feel that we have always..... **There** still should be a Signal Department **Officer** conducting the investigation.

Mr. Maybee

Mr. Hansen, I will explain to you the Division management on the Division. We **have a** Division Manager and under the Division **Manager** there are **four** Assistant Division Managers.

Mr. Hansen

Yes, **I** am very familiar with that.

Mr. Maybee

Your protest will be entered into the record Mr. Hansen, if you do not wish to postpone the investigation at this time **we will ccntinue** It as it is.

Mr. Hansen

Yes, I would agree to continue it."

Based on the foregoing, we are unable to find **a** violation **as** it pertains to the identity of the Investigating Officer.

Concerning the failure to hold the investigation in a timely fashion, the question presented centers around the time the Supervisor became aware of the alleged offense. The Claimant refers to his **7:15 a.m., July 16, 1975** notification to his Supervisor as the incident which triggered the time element, however, there is **no** showing that the Supervisor **was** reasonably **aware**, at that precise moment, of a potential violation. Accordingly, we feel that the investigation **was** held in a timely fashion.

The record does not substantiate the allegation that the decision was not rendered in a timely **manner**.

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. Paulos*
Executive Secretary

Dated at Chicago, Illinois, **this** 15th day of April 1976.