

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21080
Docket Number SG-20811

Lloyd H. Bailer, Referee

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

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Transportation Company that:

(a) The Carrier is in violation of the current **Signalmen's** Agreement in effect on the Missouri **Division** of the Chicago and **North Western** Transportation Company (formerly Chicago Great Western), in particular **Rule 62**, when on January 24, **1973**, it disciplined Mr. T. H. **Duffy** thirty **(30)** days suspension from service effective January **11**, 1973, through February **9, 1973**, account of the allegation that he **was** responsible for the potential false proceed condition account of track relay turned over and primary battery exhausted.

(b) The **Carrier** now be required to compensate **Mr. T. H. Duffy**, the actual time lost because of this alleged violation and also clear his record of this discipline.

Carrier's File: D-9-30-d

OPINION OF BOARD: Petitioner contend8 Carrier's disciplinary action violated the governing discipline rule (Rule 62) because Claimant **was** removed from service before an investigation **and** before being apprised of the **charges** against him. however, Rule 62 (a) expressly **states** that an employe may be held out of **service** pending investigation. **This** rule also clearly indicate6 that Claimant **was** not entitled to **an** investigation unless he made written request for **same**. Claimant made such request, and it **was** only upon receipt of this **request** that Carrier **was** required by Rule 62 (a) to apprise Claimant of the charges. Petitioner also refers to **Claimant's** testimony at the investigation that he received notice of the charges approximately 23 hours before the investigation began, whereas Rule 62 (a) **states** an employe "**shall** be apprised of the charges preferred against him at least forty-eight **(48)** hours prior to the investigation...." At the commencement of the investigation, however, Claimant **stated** he had been properly notified of the investigation and **was** ready to proceed. Neither he nor either of the two Organization representatives present at the proceeding requested postponement of the investigation. Petitioner advances certain other procedural contentions, none of which is sound.

As to the merits of this dispute, the evidence supports Carrier's conclusion that Claimant signal maintainer failed to properly maintain his territory, thus giving rise to the charges preferred against him. We are unable to say that the penalty assessed against Claimant constituted an abuse of Carrier's discretion.

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 Employee involved in this dispute are respectively Carrier and Employee 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:


Executive Secretary

Dated at Chicago, Illinois, this 28th day of May 1976.