

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21402
Docket Number CL-21271

William G. Caples, Referee

**(Brotherhood of Railway, Airline and
Steamship Clerks. Freight Handlers,
Express and Station Employees**
PARTIES TO DISPUTE: (
(The Alabama Great Southern Railroad
(Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-7871) that:

Carrier violated the agreement on July 11, 1972 when it unjustly dismissed **Claimant** J. E. Hays, Agent-Telegrapher, **Phoenixville, Alabama**, from their service.

For this violation, the Carrier shall restore Claimant Hays to their service with seniority and other rights unimpaired and pay him for all time and/or benefits lost, beginning Wednesday, July 12, 1972.

OPINION OF BOARD: On July 11, 1972, Mr. James E. Hays, Claimant, was dismissed from Carrier's Service for conduct **unbecoming** an employee, unauthorized use of the telephone, performing acts detrimental to the **proper** performance of his duties in making nuisance telephone calls to the home of his supervisor during 1972. Mr. Hays was restored to service effective October 10, 1972 on a leniency basis without pay loss for time but with his seniority rights unimpaired.

Prior to the dismissal of the Claimant, an investigation was held at which Mr. Hays was **represented**. Subsequent to the hearing the Claimant was judged by the Carrier as guilty as charged and was dismissed.

The Organization alleges that the Claimant was not afforded a fair and **impartial** investigation in accordance with Rule 29 of the effective agreement, but there is nothing in the record to sustain arbitrary or capricious **charges of** bad faith. It is the belief of this Board that no substantial procedural rights of the Claimant were violated.

After a complete review of the record, it would appear that there is sufficient evidence to support the discipline, and this Board sees no reason to disturb it.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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. Paulose
Executive Secretary

Dated at Chicago, Illinois, this 18th day of February 1977.

