

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **21550**  
Docket Number CL-21819

Irwin M. **Lieberman**, Referee

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

PARTIES TO DISPUTE: (

(Illinois Central Gulf Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood GL-8275,  
that:

(a) Carrier violated the Agreement when it wrongfully dismissed  
**R. E. Collins** following an investigation held at Champaign, Illinois on  
Wednesday, May 14, 1975, **and that**

(b) Carrier now be required to return **R. E. Collins** to active service with all rights and privileges unimpaired and with full pay for all wages lost during the time he has been illegally withheld from service.

OPINION OF BOARD: This dispute involves the dismissal of Claimant, after an investigation, for his responsibility for the disappearance of over \$400.00 from Carrier's ticket office at **Rantoul**, Illinois on March 18, 1975.

An examination of the handling of this dispute **on** the property reveals two fatal flaws in Petitioner's position. First, the Claim from its inception following the investigation was handled as a plea for leniency, up to and including the handling with Carrier's highest officer. It is well established by a host of awards (including 19490, 18901, 18360 and 17900 among others) that leniency is solely within the prerogative of management. Second, the Claim as presented in the final handling on the property is distinctly different **than** that presented to this Board. It is noted that the allegation of a violation of the Agreement as well as the request for full pay for time lost was never raised on the property. Section 3, First (i) of the Act contemplates that the claim denied by the Chief Operating Officer **on** the property is the claim which **may** be referred to this Board. **In** a directly parallel situation, in Award 15712, we said:

"...Not until the claim was presented to this Board did Petitioner introduce a request for payment of wages lost. Thus, it is clear that the claim as progressed on the property is not the same claim this Board has before it.

In view of the change from a plea for leniency to a claim for improper dismissal of Mr. **Huffman** and for payment of all wages lost, in accordance with well established principles that this Board will not consider claims which were not made during the handling of the case on the property, we dismiss the claim."

Based on the reasoning expressed above, the Claim must be dismissed.

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 Claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of May 1977.

