

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22238
Docket Number CL-22149

Irwin M. Lieberman, Referee

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

PARTIES TO DISPUTE: (

(Georgia Southern and Florida Railway Company

STATEMENT OF CLAIM: Claim of the **System** Committee of the Brotherhood
(**GL-8381**) that:

Carrier violated the agreement on May 12, 1975, when it unjustly suspended Claimant B. G. Scarborough, Agent-Operator, Rahira, Georgia, from the service of the Company **commencing Monday**, May 12, 1975, to and including July 19, 1975, a period of 60 calendar days.

For this violation, the Carrier shall **now** compensate Claimant B. G. Scarborough, Agent-Operator, **Hahira**, Georgia, by paying him for all time lost as a result of this unjust discipline, 44 work days, **\$1,770.12**.

OPINION OF BOARD: In this dispute Claimant was suspended for a period of 44 working days following an investigation. At the outset Petitioner objects to the **manner** in which the matter was **handled** on a procedural basis: 1. Claimant was given a charge which was vague, indefinite and prevented his **preparing** an adequate defense. 2. The investigation was not held in a fair **and** impartial wanner. It **must** be noted that there was no objection whatever at the hearing either to the framing of the charge or the conduct of the hearing. It is well established that objections which are not timely wade at the hearing are deemed to have **been** waived (see Awards 16121 **and** 21102 among a host of others). It is also abundantly clear that Claimant was prepared **and** indeed did mount a defense at the investigation. The procedural objection must be rejected. X-1

With respect to the merits, there is little question concerning the facts. Claimant, by his **own** admission in addition to **testimony** of Carrier officials, did leave his office without securing the required permission; he left the office unlocked **and** unattended, contrary to rules, for at least an hour and forty-two minutes; **and** he allowed two friends and a Carrier **customer** to store

merchandise in an unused station without authority and with full knowledge that Carrier had rejected prior requests by the **same** parties to store material in the station **on** a leased basis. The only difference in the factual aspect of the dispute is Claimant's insistence **that** his motives were pure.

It is evident that Claimant was properly found guilty of the charges by Carrier. The quantum of discipline assessed was neither arbitrary, capricious nor excessive under the circumstances and in the absence of such shoving with respect to the discipline, we will follow the long line of awards holding that we may not substitute our judgment for that of Carrier.

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:

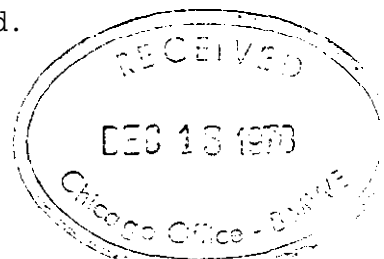
That the Carrier and the **Employees** involved **in** this dispute are respectively Carrier and **Employees** within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the 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 30th day of November 1978.

Award Number 22237
Docket Number CL-22147

Page 3

A W A R D

Claim sustained, in part, as indicated in the **Opinion.**

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **Third** Division

ATTEST: *A. W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1978.