

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **22884**
Docket Number CL-22675

George S. Roukis, Referee

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

PARTIES TO DISPUTE: (

(Southern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8682)
that:

Carrier violated the Agreement **when** it unjustly suspended
J. W. Doughty, Agent-Operator, **Wilton**, Alabama, from the service of the
Company commencing **June** 4, 1977, and ending June 18, 1977, a period of 15 days.

For this violation, the Carrier shall now compensate Claimant
Doughty, Agent-Operator, **Wilton**, Alabama, by paying him for all **time** lost as
a result of this unjust discipline.

OPINION OF BOARD: An investigation was held on July 9, 1977 to determine
the propriety of discipline assessed against Claimant
on June 3, 1977 because of his alleged failure to accrue **revenue** waybills,
pursuant to the instructions set forth in the Agency Procedures and
Instruction Manual, Item 1005 through 1035 and Item 10250600. The suspension
penalty, amounting to fifteen (15) days was subsequently upheld by Carrier
on July 19, 1977 and Claimant appealed this disposition on the property in
accordance with Agreement procedures. The claim is now before this division.

In reviewing this case, particularly the assertions **made** regarding
the investigation, **we** do not find that the hearing was conducted in a **manner**
that was violative of due process standards. To the contrary, **we** find that
Claimant was afforded a fair and reasonable opportunity to **present** an
intelligent defense.

We do find, however, substantial merit to Carrier's contention that
he failed to perform his duties properly during the period April 29 - **May** 27,
1977. This would include allowing 118 waybills to **accumulate** without
appropriate accrual and failure to secure revenue waybills on cars arriving
at the **Wilton**, Alabama station. **Claimant** acknowledged that he was late in
accruing the waybills and was approximately one month behind in his work,
but never indicated to his supervisors that **he** was overworked. In-fact,

a recent study conducted in January, 1977 revealed that his position was not overloaded and **Claimant** was frequently warned in the preceding months about his failure to keep his work current. He did not seek assistance, nor contend that he was overworked. There is no dispute regarding the elements of the specifications and the finding is conclusive that he failed to adhere properly to the cited Agency Instructions. In the absence of a finding that Carrier's suspension was arbitrary or capricious, we have no viable recourse **other** than to deny the claim.

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 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 18th day of June 1980.