

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **23202**
Docket Number SG-23296

Paul C. Carter, 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** Northwestern Transportation Company (Chicago and North Western Railway Company):

Claim No. 1

Carrier file: D-9-17-38

(a) On **or** about August 29 to September 11, 1978, the carrier violated the current Signalmen's Agreement, as amended, in particular **Rule** 60, when it dismissed **signal maintainers** **T. W. Jones, W. D. Galussek and J. D. Flores**, and District Signal Foreman R. C. Larsen, headquartered at **Proviso** Bump Yard, from service without just and sufficient cause on basis of unproven charges. Also without conducting a fair and impartial investigation.

(b) Carrier now reinstate Messrs. Jones, Galuszek, Florea **and Larsen** to their former positions at the Proviso Bump Yard, with all seniority and other rights unimpaired, and compensate them for all **time** lost and **expenses** incurred **since** unjustly held from service, and clear their personal service record of the entire charge **submitting** such removal of discipline.

(NOTE: The claim is shown as submitted **on** the property. Messrs. Jones, Galuszek and Larsen have since been restored to service; therefore the claim is on behalf of Mr. Flores only).

Claim No. 2

Carrier file: D-9-17-41 (for Williams)
D-9-17-42 (for Saraparu)

(a) On or about August 29 to September 11, 1978, the carrier violated the current Signalmen's Agreement, as amended, in particular **Rule** 60, when it dismissed T. Saraparu and J. Williams from service without just and sufficient cause on basis of unproven charges, also without conducting a fair and impartial investigation.

(b)-Carrier now be required to reinstate T. Saraparu **and J. Williams** to their former positions with all seniority **and all other rights unimpaired and** compensate them for all time lost and **expesnes** incurred since they **were** unjustly held from **service**, and clear their personal service record of the entire charge submitting such removal of discipline.

Claim No. 3

Carrier file: D-9-17-37

(a) **On** or about August 20 to September 11, 1978, the carrier violated the Brotherhood of Railroad Signalmen's **Agreement**, as amended, in particular **Rule 60** when the carrier charged **Mr. D. Floree** with rule **violations** and dismissed him from service without just **and** sufficient cause, nor without conducting a fair and impartial investigation.

(b) Carrier now be required to reinstate D. Florea **to his former** position with all seniority, and all other rights unimpaired and compensate him for all **time** lost and expanses incurred since he was unjustly held from service, and clear his personal record of the entire charge submitting such removal of discipline."

OPINION OF BOARD: The claims originally involved the dismissal **of six signal employees** following rather lengthy investigations. The parties are in agreement that the claims in behalf of Signal **Maintainers** T. W. Jones, W. D. Galuszek and District Signal Foreman R. C. Larsen have been settled. The claims in behalf of these **three claimants** will accordingly be dismissed.

The claims of the Organization in behalf of the three remaining **claimants**, J. D. **Flores**, T. **Saraparu** and J. Williams, are predicated on tha following objections ad issues:

1. Charges ware not precise.
2. Investigations not conducted by a supervising officer of the Signal Department.
3. Company surveillance of union representativea.
4. Hostile treatment of union representatives during the **investigations**.
5. Decision not by a supervisor of the Signal Department.
6. Charge.5 not proven.

The Board has studied the entire transcript of the investigations, and finds no proper basis for listed Items 1, 2, 3, 4 and 6. Without attempting to detail the evidence adduced at the lengthy investigations, suffice it to say that we find substantial evidence to support Carrier's actions in dismissing claimants Flores, Saraparu and Williams.

As to Item 5 listed above, the Board has been referred to its Awards Nos. 21230, 22277 and 22770 involving the same parties. Recognizing that there may have been a **technical violation** of the discipline rule of the Agreement in assessing the discipline following the investigations in our present case, and without attempting to overrule Awards Nos. 21230, 22277 and 22770, we do not consider the technical violation in this particular case to be of **sufficient** significance to invalidate the entire proceedings, in view of the **seriousness** of **the** offenses **and the** overwhelming evidence in support of the charges. **That the claims in behalf of T. W. Jones, W. D. Galuszek and R. C. Larsen be dismissed; that the claims in behalf of J. D. Flores, T. Saraparu and J. Williams be denied.**

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 **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

Claims disposed of in accordance with the Opinion.

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

ATTEST: _____

A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 16th day of **March, 1981.**