

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23557  
Docket Number CL-23767

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,  
Freight Handlers, Express and Station Employees  
(The Pittsburgh and Lake Erie Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-9298) that:

(a) The Carrier violated the Rules Agreement, effective September 1, 1946, particularly Rule 20, when It assessed discipline of five days' deferred suspension on the following clerks November 16, 1978:

G. A. Evans  
S. G. Owens  
D. Schutz

G. D. Wittman  
D. G. Wey, etc.

OPINION OF BOARD: The five Claimants in this case were assessed a five-day deferred suspension for their involvement in a disturbance that took place in Carrier's annex building in Pittsburgh, Pennsylvania, at 5:15 a.m. on October 28, 1978.

The Organization filed a grievance for each of the five men, claiming failure of Carrier to grant a fair and impartial investigation, failure of Carrier to issue precise charges, and failure of Carrier to carry its burden of proof.

This Board has reviewed the record of this case and finds that the lapse of time between the date of discipline (November 16, 1978) and the date of this award (March 10, 1982) has rendered this case moot and the deferred suspension harmless. Carrier, by its own admission in the record, has stated that since more than 12 months have transpired, the penalties will never be imposed and the case is moot.

This Board sees no reason to go into the merits of a moot issue.

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 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

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That the issue is mot.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Or&r of Third Division

ATTEST: Acting Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 10th day of March 1982.

