

The Third Division consisted of the regular members and in addition Referee Jack Warshaw when award was rendered.

PARTIES IN DISPUTE: (Brotherhood of Maintenance of Way Employees
(Union Pacific Railroad Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it suspended Mr. T. T. Powell from service for seven and one-half (7 1/2) hours on September 9, 1985 without benefit of a hearing (System File M-264/013-210-48).

(2) Claimant T. T. Powell shall be allowed seven and one-half (7 1/2) hours of pay at his straight time rate."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This claim arises from the fact that the Claimant appeared at the worksite thirty minutes late and accordingly was not permitted by the Carrier to work the remainder of that day. The Organization contends that the Claimant was disciplined without being accorded a fair and impartial hearing under Rule 48(a) of the Agreement. That Rule provides:

"(a) Except as provided in Paragraphs (k), (l) and (m) of this provision, an employe who has been in service more than sixty (60) calendar days, whose application has not been disapproved, shall not be dismissed or otherwise disciplined until after being accorded a fair and impartial hearing. Formal hearing, under this rule, shall be held within thirty (30) calendar days from the date of the occurrence to be investigated or from the date the Company has knowledge of the occurrence to be investigated...."

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Award No. 27226
Docket No. MW-27662
88-3-87-3-121


In numerous Awards, this Board has held that the Carrier may refuse to permit the late employee to work that day and that such refusal does not constitute discipline. (See Third Division Awards 22904, 23294, 24428, 25987).

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 20th day of July 1988.