

NATIONAL RAILROAD ADJUSTMENT BOARD

Form 1

THIRD DIVISION

Award No. 29709

Docket No. SG-29619

93-3-90-3-604

The Third Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
Central of Georgia Railroad Company

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Central of Georgia Railroad:

Please accept this as a grievance on behalf of Mr. M. E. Glenn, assigned headquarters Payne, Macon, GA, assigned working hours 8 AM to 4:30 PM, Monday thru Friday, for the following:

(a) Carrier violated the Signalmen's Agreement, particularly Rule 50 when they disciplined him by placing three letters on his personal file on September 12, 1989, which is neither true or accurate and denied him his rights under the agreement.

(b) Carrier now be required to remove these letters from Signal Maintainer M. E. Glenn's personal file." Carrier file SG-ATLA-89-24. G.C. File CG-1389. BRS Case No. 8194-CofGA.

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 employe 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.

On October 6, 1989, a claim was filed with the Carrier on grounds that three letters had been placed in the Claimant's file. The letters implied that the Claimant wasted work time, and that he had not been taking proper care of equipment issued to him. According to the claim these letters represented "...nothing more than" discipline. Relief requested was that the letters should be removed from the Claimant's file.

In response to the claim the Manager of Personnel & Labor Relations advised the Organization that "...no letters (had) been placed (in the Claimant's) personnel file in this office which maintains the only authorized file." That Manager did note, however, that the S&E supervisor who wrote the letters may have maintained some type of file in his office. If such were so, however, that file was only for the S&E supervisor's own use.

In appealing the denial of the claim the Organization maintained, nevertheless, that the S&E supervisor was "...maintaining some type of file that could be used against" the Claimant. The Organization reiterated its original claim.

Final denial by the Carrier prior to the docketing of this claim before the National Railroad Adjustment Board for final adjudication states that such letters of the type hereunder consideration are only letters of counselling or warning. According to the Carrier, these letters did not represent discipline, and none had been levied against the Claimant.

Upon review of the full record the Board must conclude that there had been no discipline levied against the Claimant. Rule 50 of the Agreement deals with investigations related to discipline. That Rule does not apply in the instant case. The letters issued were a form of counselling, which were written and not oral, and they never became part of the Claimant's personnel file.

There is abundant arbitral precedent in this industry to warrant conclusion that letters of the type at bar in this case are not discipline and the Board must rule accordingly. (See Second Division Awards 8062, 8531, 11683; Third Division Awards 24953, 27805, 27807). In a comparable case Award 41 of Public Law Board 2789 ruled as follows, which the Board cites here, in pertinent part, with favor:

"The Board finds no contractual prohibition against the Carrier (for) sending a warning letter...to an employee concerning some omission or commission...so long as the purpose of the letter...(was) to place Claimant on notice (that certain behaviors needed correcting)."

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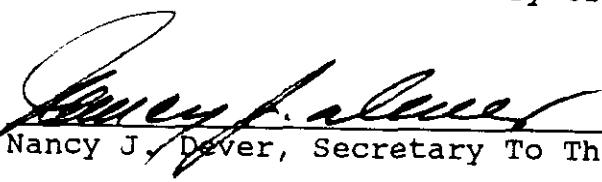
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No provision of the operant Agreement was violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever, Secretary To The Board

Dated at Chicago, Illinois, this 16th day of July 1993.