

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

**CHICAGO, ST. PAUL, MINNEAPOLIS AND OMAHA
RAILWAY CO.**

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

(1) The carrier violated agreement rules when it failed and refused to reinstate H. W. Cook, Yard Clerk, Superior, Wisconsin, who was dismissed under date of August 20, 1943, and

(2) The carrier shall now be required to reinstate Yard Clerk Cook and reimburse him for wage loss incurred since August 14, 1943.

OPINION OF BOARD: This is a discipline case. The record shows that the claimant employee, H. W. Cook, was discharged from the service on August 20, 1943, after investigation per Rule 23. He received the decision of carrier officer or advice of such discharge on August 21st, the following day, which was within the seven (7) day period from the date of investigation held August 18th and 19th. Appeal as provided for in Rule 24 was not made until August 30, 1943, which is beyond the time limits provided for in the rule reading:

"Hearing—Rule 24. An employee dissatisfied with the decision shall have a fair and impartial hearing before the next proper officer provided written request is made to such officer and a copy furnished to the agent or officer whose decision is appealed within seven (7) days of the date of the advice of the decision. Hearing shall be granted within seven (7) days thereafter and a decision rendered within seven (7) days of the completion of hearing."

This Board, therefore, cannot consider this case on its merits, and it is hereby dismissed. Compare Award No. 2222.

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 employee 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 by reason of the failure of the employe or his representative to comply with the time limits of Rule 24, the merits of the claim cannot be passed upon by the Board.

AWARD

Case dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 19th day of May, 1944.