

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

(James H. Douglas, Referee)

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

(Frank A. Thompson, Trustee)

STATEMENT OF CLAIM: 1. Claim of the American Train Dispatchers Association that the St. Louis-San Francisco Railway Company acted contrary to the intent of Sections (a) and (b) of Article V of the Train Dispatchers' Agreement when it demoted Train Dispatcher W. L. Woods from his regularly assigned position as Trick Train Dispatcher in the Tulsa, Oklahoma office, to that of a Telegrapher, effective June 7, 1944, without proper notice and without proper hearing.

2. Train Dispatcher Woods shall now be restored to his position as Train Dispatcher, with seniority unimpaired, his record cleared of all charges in connection with discipline assessed, and compensated for any and all wage loss suffered by him from Midnight, June 7, 1944, until he is restored to his position as Train Dispatcher.

OPINION OF THE BOARD: Fairland is under the Dispatcher's Office at Tulsa, where Woods was Dispatcher. The Telegrapher at Fairland failed to deliver a restrictive train order which resulted in two opposing trains occupying the main track. After a hearing the Telegrapher was discharged and Woods demoted. The written notice of hearing given to Woods was as follows:

"Arrange to report to me as soon as you are ready with representative of your choice for investigation relative failure of operator at Fairland Tower to deliver order No. 214 to Third 438, June 4, 1944."

The only question for decision is whether the notice complied with the Agreement which requires that notice "shall clearly specify the precise charge or nature of the complaint." The merits of the dispute are not before us.

While the notice fails to state a "precise charge" against Woods it does specify the "nature of the complaint". Its only reasonable meaning was to advise Woods that he would be called upon to explain his guilt or innocence under any duty chargeable to him in connection with the operator's handling of train orders. Such was the case. At the hearing Woods admitted it was his duty to watch the delivery of orders and the carding of trains, which he failed to do, and attempted to explain the reason for his failure. Furthermore the record shows that Woods stated he was ready to proceed with the "investigation", and at its conclusion that he was satisfied with the "investigation". His representative participated in the questioning in developing Wood's defense.

Complaint is made that the use of the word "investigation" in the notice was not sufficient to notify Woods that he was to appear for a hearing. There is nothing in the record to show that the use of such word misled Woods or kept him from having a full and fair hearing of his defense. The fact that the com-

plaint about the form of the notice was first raised only after the action of the Carrier had been vigorously contested on the property to the highest authority and after some 83 days had elapsed lends support to the contention that the "investigation" was understood to be a hearing. Under the circumstances it cannot be said that Woods' delay in raising the point necessarily bars its consideration, but we need not further discuss that question in view of our conclusion that the form of the notice was adequate and complied with the requirements of the Agreement.

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 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

That Claimant was given proper notice.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary

Dated at Chicago, Illinois, this 2nd day of November, 1945.