

Award No. 4449
Docket No. CL-4433

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Adolph E. Wenke, Referee

PARTIES TO DISPUTE:

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

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF FACTS: Claim of the Division Committee of the Brotherhood that:

(a) The Carrier violated the provisions of the Rules Agreement, effective May 1, 1942, particularly Rules 2-A-1, 5-C-1, and 6-A-1, by requiring Catherine M. Franz, Extra Clerk, Station Department, Baltimore, Maryland, Maryland Division, to report for duty at 4½ Street Freight Station, Washington, D. C. on November 18, 1946.

(b) Discipline of two weeks' suspension imposed as a result of alleged insubordination in failing to so report be removed from her service record and she be reimbursed for any wage loss suffered. (Docket E-381.)

OPINION OF BOARD: The Brotherhood contends that Carrier violated the provisions of their effective Agreement when it disciplined Extra Clerk Catherine M. Franz by a two weeks suspension. It asks that it be removed from her record and that she be reimbursed for any wage loss suffered.

The record discloses that on April 20, 1946, the parties, pursuant to Rule 5-C-1 of their Agreement effective May 1, 1942, entered into an agreement for an extra board of clerical employees at President Station in Baltimore, Maryland, to fill vacancies at various freight stations in Baltimore or at outlying stations. Claimant, with seniority in Group 1 on the Maryland Division, which includes Washington, bid and was assigned as an extra Clerk at President Station, Baltimore. Trial was had and on December 14, 1946, Claimant 16, 1946, Claimant was instructed by the Freight Agent at the President Street Freight Station, Baltimore, to report for duty on Monday, November 18, 1946, at 4½ Street Freight Station, Washington, D. C. The Station at Washington is within the Maryland seniority district but at that time no agreement for an extra board for the Washington Station had been entered into by the parties pursuant to Rule 5-C-1 of their Agreement and consequently no extra clerks were available or assigned to work at that Station. On Monday, November 18, 1946, Claimant reported to the Freight Agent at the President Street Station in Baltimore and advised him she would not go to Washington. She was immediately suspended from work.

On November 25, 1946, Claimant was notified that on November 29, 1946, an investigation would be held in connection with a charge that she was

guilty of insubordination by reason of her refusal to report for work at the Washington Station. This hearing was held on November 29, 1946. Claimant returned to work on December 1, 1946.

On December 5, 1946, Claimant was notified that she was charged with: "Insubordination, refusing to report to 4½ Street, Washington, D. C. on Monday, November 18, 1946," and that a trial thereof would be held on December 10, 1946 at 2:00 P. M. in the office of the Freight Agent in the President Station, Baltimore. Trial was had and on December 14, 1946, Claimant was notified that she was suspended effective for the period from November 18, 1946 to November 30, 1946, inclusive.

Insubordination is the refusal to recognize authority, or not submitting to authority. One of the paramount essentials in the operation of railroads is that subordinates obey the orders of their superiors and refusal to do so is a major offense within Rule 6-A-1 (b) of the Agreement which authorizes Carrier to hold an employe suspected thereof out of service pending trial and decision.

There is no question of the fact that Claimant refused to obey the instructions of her superior when he instructed her to report for work at the Washington Station on Monday, November 18, 1946. The Brotherhood seeks to justify her refusal on the grounds that the instructions were not proper under her assignment, although Claimant refused to do so for that and other reasons which were of a personal nature. All the reasons attempting to justify her conduct are beside the issue. This is not a claim based on improper assignment. When Claimant refused to obey the instructions she took upon herself the responsibility of disregarding the orders of her superior and thereby subjected herself to disciplinary action. While it is the Carrier's duty in operating the railroad to comply with the rules of the Agreement, however, if it fails to do so proper and adequate relief is open to the employe but not by refusing to obey orders.

Rule 6-A-1 (a) provides that no employe shall be disciplined without a fair and impartial trial. The investigation and trial were had and conducted by local supervisory officers but such is within the contemplation of the Agreement. All the requirements of the rules were complied with. The Claimant was represented and, from the record, there is no question but what she was given every opportunity to bring out all the facts, about which there is little or no dispute. We find that the Carrier conducted the proceedings properly and that Claimant had a fair and impartial trial within the contemplation of the parties' Agreement.

Item 4 of the parties' extra board agreement of April 20, 1946, under which Claimant was assigned, provides in part:

"Employes failing to respond for service for which called will be dropped to the bottom of the list."

This is a provision which relates to the operation of the extra list and is in no way related to the question of discipline. It does not exclude or prevent the imposition of discipline on those of the extra list when, as here, they are guilty of an offense justifying such action.

In view of the foregoing we have come to the conclusion that there is nothing in the record that would justify our interfering with the Carrier's action and that the contentions of the Claimant are without merit.

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 Employes involved in this dispute are respectively carrier and employes 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 the Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
BY Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 12th day of July, 1949.