

Award No. 4556

Docket No. CL-4568

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Adolph E. Wenke, Referee

PARTIES TO DISPUTE:

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

CHICAGO, SOUTH SHORE AND SOUTH BEND RAILROAD

STATEMENT OF CLAIM: (1) Claim of the System Committee of the Brotherhood that the dismissal of Ticket Agent Carl D. Babcock July 25, 1947 was unjust and unreasonable, and

(2) That Ticket Agent Babcock be reinstated with seniority and other rights unimpaired and be compensated for all time lost, retroactive to July 18, 1947, the date removed from service.

OPINION OF BOARD: The System Committee of the Brotherhood contends that the Carrier's dismissal of Ticket Agent Carl D. Babcock was unjust and unreasonable and asks that he be reinstated with seniority and all other rights unimpaired and compensated for all time lost.

Sometime between about 9:40 and 10:35 P. M. on Thursday, July 17, 1947, the cash box in the Ticket Office of the Carrier at its Gary, Indiana, Passenger Station disappeared. At the time Claimant was the regular Ticket Agent on duty at the Station.

On July 18, 1947, Claimant was suspended from service and, on the same day, notified to appear in the office of the Carrier's Superintendent of Transportation on Wednesday, July 23, 1947, at 1:30 P. M. to determine his responsibility for the loss of \$680.85 while he was on duty as Ticket Agent at Carrier's Gary, Indiana Passenger Station on July 17, 1947. These funds were in the cash box.

Investigation was accordingly held on July 23, 1947, and, under date of July 25, 1947, Claimant was notified of his dismissal from the service because he was found to have been careless and negligent in the handling and protecting of the Carrier's funds and disregarded all methods and routines furnished to safeguard them.

The record discloses that Claimant last noticed the cash box containing these funds sometime between 9:30 and 9:45 P. M. At that time it was on a desk in the Ticket Office and in a position where it was easily accessible to outsiders. About 9:59 P. M., after trains 37 and 38 had departed, Claimant had in his possession two baggage checks, destination Memphis, Tennessee, to go out on train No. 12 the next day. A buzzer system is provided in the Ticket Office for the purpose of calling a porter to put these checks on the baggage and ordinarily it is done in that manner. However, after the trains left Claimant took the baggage checks and left the Ticket Office unattended with

the cash box containing these funds on a desk where it was easily accessible to anyone outside of the Ticket Office. He first stepped into the lavatory. He then went out of the station by the southwest door and went to the baggage room, which is outside of the station. Just outside of the baggage room he found the baggage, consisting of a trunk and a footlocker, on the station platform. He placed the two checks thereon and then informed the porter, John Davis, whom he observed through the open door of the baggage room, that the baggage was to go out the next day on train No. 12 and that he should put it inside. He then returned to the Ticket Office, being gone some five or six minutes. About 10:31 P. M., when a concession employe checked in, he noticed the cash box was gone. He immediately notified the police and Carrier.

We find the Claimant was negligent in failing to use the buzzer to call the porter to place the checks on the baggage but in doing so himself, thus leaving the Ticket Office unattended with the cash box placed therein so as to be easily accessible to outsiders. We also find that Claimant not only failed to follow instructions but was extremely negligent in leaving the cash box containing surplus funds on a desk in the Ticket Office, where it was easily accessible to outsiders, instead of putting it in the safe which had been provided for that purpose and where he had been directed to place it.

While it may be that Carrier could provide safety measures that would be of help in securing the safety of its funds used in the operation of this Ticket Office; however, that fact does not relieve Claimant of his negligence in the handling thereof. The Claimant's conduct was of such a nature that Carrier was fully justified in finding him guilty of being careless and negligent in the handling and protecting of its funds and in dismissing him because thereof.

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 Carrier has not violated 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 September, 1949.