

Award No. 5170
Docket No. CL-5165

**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 CLAIM: Claim of the System Committee of the Brotherhood that:

Joseph Granese, Tallyman, River Street Freight Station, Newark, New Jersey, be returned to service with all rights unimpaired and be compensated for all monetary loss sustained, dating from July 12, 1948, until adjusted. (Docket N-223.)

OPINION OF BOARD: The System Committee of the Brotherhood makes this claim in behalf of Tallyman Joseph Granese. It asks that he be restored to service with all rights unimpaired and that he be compensated for all loss sustained by reason of his dismissal.

This is a disciplinary matter arising out of a claim that the employe was insubordinate on June 3, 1948. The charge filed against him is as follows: "Creating a disturbance at River St. Freight Station, Newark, N.J., at about 9:05 A.M., June 3, 1948, by using abusive and insubordinate language to Chief Clerk Toy, and Foreman McDermott, when requested to produce a return to duty slip following illness."

The record discloses that claimant had a fair and impartial trial within the intent and meaning of the rules of the parties' effective Agreement relating to discipline. The evidence offered at the trial fully sustains the Carrier's findings to the effect that claimant was guilty of the charges made against him. In view of the nature of the charges made and proved, we do not find the Carrier acted arbitrarily or unreasonably by imposing the discipline that it did.

Claimant's difficulties seem to have arisen by reason of the fact that he thought no return to duty slip was necessary and that the request made upon him to furnish one was unreasonable. But that does not relieve him of the responsibility for what he did. It was his duty to comply with the orders of his superior. If he had a grievance arising therefrom, the rules of the parties' Agreement provide a proper procedure for disposing thereof.

We find the claim to be 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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 20th day of December, 1950.