

Award No. 5752

Docket No. TD-5655

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Angus Munro, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the American Train Dispatchers that:

(a) The Chicago, Rock Island & Pacific Railroad Company violated Article 7 of its existing agreement with the claimant organization by its action in suspending Dispatcher O. W. Craig from his assigned position as trick dispatcher for a period of thirty (30) days beginning on or about January 15, 1951, upon a charge unsustainable by the record of hearing held on January 4, 1951.

(b) Dispatcher O. W. Craig be compensated for all time lost as a result of said carrier's unwarranted and unsustainable action.

OPINION OF BOARD: This claim is advanced by the Association, hereinafter called Petitioner, for and on behalf of one Craig, hereinafter called Claimant.

Rock Island Railroad, hereinafter called Carrier, cited Claimant to appear for investigation concerning alleged violation of Operating Rule 375 and Rules 2, 3, 28 and 62 of Instructions to Dispatchers. Petitioner averred it duly and timely entered several objections and pleas in bar at said hearing but that the same were erroneously overruled. Without further comment on the same we do not think the rulings made by the hearing officer should be disturbed.

Claimant was found to be in violation of Operating Rule 375, Paragraph 8, and Petitioner claims such action to be arbitrary, whimsical, and capricious on the part of Carrier and not supported by evidence adduced at the hearing.

Claimant testified, in part, as follows: "I took the block away from him, trying to get a figure on when they were going to move. * * * Ex-44 South never came on telephone after reporting ready at 9:30 P.M. and pulled out over the block at approximately 10:00 P.M. Ten minutes after block was taken away from him. * * *" We think the point is in view of events and acts transpiring subsequent to 9:30 P.M. was Carrier reasonably justified in concluding no emergency existed within the meaning of the Rule? We have carefully reviewed the record and the inferences drawn therefrom by both sides. We do not think any good would come of restating them in that nothing would be settled and nobody satisfied. Suffice it to say evidence does support the finding and we will not disturb it.

But this is not to say we approve of the punishment fixed by Carrier. It is well settled this Board may reduce same in what it considers a proper case. By reason of Claimant's promptly reporting matters to his superior in rank and acting as he understood Carrier desired, we think the discipline assessed should be reduced.

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 Claimant violated an operating rule as found by the hearing officer but that the discipline imposed was excessive.

AWARD

The order of discipline be amended to read 20 days in lieu of 30 days.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois, this 1st day of May, 1952.