

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Livingston Smith, Referee

PARTIES TO DISPUTE:

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

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

Frank G. Taylor, Jr., Ticket Clerk, Pennsylvania Station, New York, New York, New York Division, be returned to service with all rights unimpaired and compensated for all monetary loss sustained dating from January 21, 1952, until adjusted. (Docket N-327).

OPINION OF BOARD: This is a discipline case concerning one Frank G. Taylor, Jr., who prior to the time in question held assignment as Ticket Clerk at Pennsylvania Station in New York City.

Under date of January 21, 1952, Claimant was notified that he was being held out of service pending trial and decision on the following charges:

"Collecting passenger fares in excess of tariff rates at Pennsylvania Station Ticket Office, New York City, on October 2, 3, 4, November 1, December 12, 21, 1951."

Hearings on the above charges were held on January 23, 1952 and under date of February 12, 1952, Claimant received "Notice of Discipline for Offense Occurring" which was dismissal. Appeal from this decision was taken and the initial judgment finally sustained by the General Manager on May 9, 1952.

Claimant seeks reinstatement with all contractual rights unimpaired and pay for all time lost, relying on Rules 6-A-1 (a), (b), 6-B-1, 6-C-1 (a), (b), and 7-A-1 (d).

The record indicates that the basis of the charges was the alleged overcharging or short-changing of ticket purchasers on six occasions dating from October 2 to December 21, 1951. Respondent produced five different witnesses at the hearing, each of them a Carrier investigator, and each of whom testified that they had been overcharged or short-changed. One incident involved 20 cents and five other incidents involved 25 cents, a total of \$1.49.

It is well established by Awards of this Board that a disciplinary action of a carrier will not be disturbed if substantial evidence of probative value is adduced and (1) the investigation rules have been followed, (2) the action

of the carrier is neither arbitrary or capricious, and (3) the penalty invoked is neither excessive or unreasonable.

Both Claimant and his representative expressed opinions that a full and impartial hearing had been held. There is nothing in the record to substantiate a charge or sustain a finding of arbitrary action by the Respondent.

There is substantial evidence of record that indicates a pattern of irregularities so consistent and repetitious as to preclude a conclusion that the same were accidental or occurred in due course of handling the Carrier's business.

This being true, there are no good grounds to sustain a request that the penalty imposed be rescinded or modified.

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 the facts of record will not justify this Board in rescinding or modifying the actions taken by the Respondent.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 3rd day of August, 1953.