

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

ANNA K. ELD

CHICAGO, BURLINGTON AND QUINCY RAILROAD COMPANY

STATEMENT OF CLAIM: The Claim is that Anna K. Eld has wrongfully been denied a hearing before E. L. Potarf, General Manager of the Railroad, by reason of her wrongful discharge on February 11, 1955. It is requested that an award be made requiring the General Manager of the Railroad, E. L. Potarf or his successor, to give petitioner a hearing to determine whether her discharge on February 11, 1955 was or was not a wrongful discharge.

OPINION OF BOARD: The claim of Anna K. Eld in this dispute obviously is before this Board upon a false premise. In it she claims she was denied a hearing "by reason of her wrongful discharge" on February 11, 1955. The record, Carrier's Exhibit Nos. 1 and 8, show very clearly that Claimant Eld was disqualified for service in the Joint Livestock Office, St. Joseph, Missouri, only; that she was not discharged as alleged.

Such disqualification was based upon the allegations or charges by the Carrier, as stated in Carrier's Exhibit No. 1. She requested and was granted a hearing as contemplated by Rule 52. Following such hearing, Miss Eld was properly advised, Carrier's Exhibit No. 8, that the record of the hearing developed beyond doubt that she was guilty of the charges made by the Carrier officer. Therefore, the discipline assessed was not discharge, but disqualification from "further service in the Joint Livestock Office, St. Joseph, Missouri", only.

Claimant Eld did not appeal such Carrier decision in accordance with Rule 53, hence, in the absence of such appeal, it must be found that Miss Eld accepted Carrier's decision as set forth in Mr. A. E. Way's letter of March 23, 1955, Carrier's Exhibit No. 8, reading:

"Miss Anna K. Eld,
2948 Angelique Street,
St. Joseph, Missouri.

Dear Miss Eld:

This is to notify you that the investigation held in my office March 5, 1955 in accordance with your request, develops beyond question that you are guilty of charges made, that disqualification action taken previously was fully justified, and that there will be no change in your status with this company.

Please acknowledge receipt of this notification in space provided therefor below on attached copy of this letter and return same to my office promptly.

Yours truly,

/s/ A. E. Way
President"

Consequently, Anna K. Eld was still an employe of the Carrier with full rights at the time of invoking the action of this division, except that by the discipline assessed she was disqualified for further service in the Joint Livestock Office, St. Joseph, Missouri. The Third Division so finds and holds.

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 employe involved in this dispute are respectively carrier and employe 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

The claim as made in the Statement of Claim is denied in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 15th day of May, 1957.