

Award No. 10562

Docket No. TE-12692

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Jerome A. Levinson, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

NORFOLK SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Norfolk Southern Railway that:

1. The Carrier improperly dismissed Agent N. L. Smith from its service.
2. The Carrier shall now be required to restore Mr. Smith to service with seniority and all other rights unimpaired, and pay him for all time lost as a result of such improper removal from service.

OPINION OF BOARD: The record in this docket is in conflict as to just what advice was given to the Claimant by the Carrier, or when given, with respect to the removal of the Claimant from the position of Agent at Bayboro-Grants. The record is not clear as to just what claim was presented and handled on the property by the Claimant or his representative in accordance with the requirements of Section 3, First (i) of the Railway Labor Act. It is evident that certain issues and contentions have been raised by both parties in their submissions to the Board that were never raised or made a part of the dispute in the handling on the property.

It is clear from the record that Claimant was relieved as Agent at Bayboro-Grants at the close of business on March 29, 1960, and that he did not request hearing in connection therewith within the ten-day time limit specified in Article 10.

Based upon the entire record, the Board finds and holds that the Claimant should be restored to the seniority roster with rights held by him prior to March 29, 1960, and placed on the extra list under Article 23 until such time as he may bid in a position to which his qualifications and seniority entitle him. Claim for pay for all time lost since March 29, 1960, will be denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 claim is to be disposed of according to the Opinion.

AWARD

Claim disposed of in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of April 1962.