

Award No. 10563

Docket No. CL-12283

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Jerome A. Levinson, Referee

PARTIES TO DISPUTE:

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

WABASH RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-4888) that:

(1) Carrier violated the Schedule for Freight Handlers on the St. Louis Terminal Division when:

- (a) It suspended Mr. Alfred Rogers, Freight Handler from service for a period of ten (10) days.
- (b) It denied Mr. Rogers a right to appeal to the Superintendent.
- (c) It failed to accord Mr. Rogers a hearing on subsequent appeal.

(2) Mr. Alfred Rogers be paid ten (10) days at straight time rate of his assignment as freight handler while being held out of service on the following dates: January 16, 17, 20, 21, 22, 23, 24, 27, 28 and 29, 1960.

OPINION OF BOARD: Claimant was a Freight Handler. On January 6, 1960, a foreman filed charges against Claimant for insubordination in his refusal to carry out the orders of a superior to stop what he was doing and stow freight at another location. The same day, the Station Manager sent the following notice signed by him to the Claimant:

"Please report to my office, 500 N. Front Street, East St. Louis, Illinois, Tuesday, January 12, 1960, 9:00 A. M. for an investigation in connection with insubordination, your refusal to carry out orders of a superior, 4:20 P. M., Wednesday, January 6, 1960.

If you wish to have a representative of your organization present, you may do so."

The investigation was conducted by the Station Manager, and on January 15, 1960, Claimant was suspended from the service of the Carrier for a period of ten (10) days. Suspension was upheld, after request for hearing on appeal.

It appears from the record before the Board that the charge of insubordination against Claimant was precise; that substantial evidence given at the investigation by several witnesses sustained the charge of insubordination; that Claimant was accorded a fair and impartial hearing on appeal; and that the Carrier has neither been arbitrary nor capricious nor abused its discretion. Therefore, the claim must 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 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

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.