

Award No. 10822
Docket No. TD-11290

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Phillip G. Sheridan, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

ERIE RAILROAD COMPANY

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

(a) The action of the Erie Railroad Company, hereinafter referred to as "the Carrier" was arbitrary, unjust, and in abuse of its discretion, when on or about September 17, 1958, it imposed discipline of fifteen (15) days actual suspension upon Mr. Russell Cisco, of its Hoboken, New Jersey train dispatching office, upon charges unjustified in the record.

(b) The Carrier shall now remove this record of discipline from the record of Claimant Russell Cisco and shall compensate him for actual time lost as a result of Carrier's unjustified action.

OPINION OF BOARD: This is a discipline case, and the Claimant was suspended for a period of fifteen (15) days.

The Claimant was the dispatcher on duty when a head-end collision occurred which resulted in the death of five persons and the injury of thirty-six persons.

The claim herein centers about the interpretation of Rule 207.

"To transmit a train order, the signal '31' or the signal '19' followed by the direction must be given to each office addressed, the number of copies being stated, if more or less than three—thus '31', West, copy '5' or '19', East, copy 2.

"When an operator receives the signal '31' or '19' followed by the direction, he must immediately display the 'stop signal' for the direction indicated and then reply 'Stop Displayed' adding the direction."

Did the Claimant comply with rule 207?

Our findings must be in the negative and we are sustained in our opinion by Claimant's testimony expressed at the investigation convened for the purpose of ascertaining the responsibility for the cause of the fatal collision, we quote from the Claimant's testimony as follows:

"Q. Before issuing train order 103, did operator Roth inform you that stop signal was displayed?

"A. No. May I elaborate on that?

"Q. You may.

"A. It has been the custom and the past practice to report 'SD' meaning, of course, 'Stop Displayed' immediately after repeating the Order and that is, of course, before the 19 Order would be completed."

It is apparent from reading the second paragraph of operating Rule 207 that the tower operator must reply 'Stop Indicated' adding direction". This imposes a mandatory duty upon the Dispatcher to hear that portion of the quoted rule before he proceeds further by transmitting the train order. This was not done.

Employees cannot disregard the Carrier's operating rules to do so, would promote chaos rather than safety and efficiency.

The penalty imposed herein was most lenient, Carrier's imposition of discipline towards the Claimant was neither arbitrary nor capricious.

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 herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 28th day of September 1962.