

Award No. 11014

Docket No. TE-12156

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert J. Ables, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
KANSAS, OKLAHOMA AND GULF RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Kansas, Oklahoma & Gulf Railway that:

1. The Carrier without due cause or justification suspended Local Chairman W. R. Prichard from his position as Agent-Telegrapher at Allen, Oklahoma, for a period of thirty (30) days commencing September 12, 1959;

2. The Carrier shall remove such suspension from Mr. Prichard's record and compensate him for wages lost during the suspension period.

OPINION OF BOARD: This is a discipline case. The Claimant, Local Chairman of his Organization, was suspended for 30 days by the Carrier for using "vicious language", in violation of company rules, in a letter, prepared on company time, on company stationery and on a company typewriter the Claimant sent to the rank and file members under his jurisdiction in connection with a dispute which existed between himself and the General Chairman in an Organization matter.

Carrier's action as it applied to Claimant's conduct as Local Chairman was improper and cannot be sustained. It is well settled that a Carrier may not discipline an employee for actions taken as an officer of a labor organization representing the employees of his craft. Claimant's admitted use of company equipment on company time to conduct Organization business, however, was in violation of company rules. A 5 day suspension for this offense is warranted. Accordingly, the penalty imposed should be reduced to 5 days actual suspension and the Claimant should be paid for the remainder of the penalty imposed on him.

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; and

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein.

AWARD

Claim sustained and denied 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 20th day of December 1962.