

Award No. 13981

Docket No. TE-13346

NATIONAL RAILROAD ADJUSTMENT BOARD

**THIRD DIVISION
(Supplemental)**

P. M. Williams, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYES UNION
(Formerly The Order of Railroad Telegraphers)**

**THE NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the New York, New Haven & Hartford Railroad, that:

1. Carrier violated the Agreement, in an arbitrary misuse of managerial authority when, on charges unfounded and unproved, it assessed discipline against Mr. E. C. Crowell in the amount of nine days' suspension for an alleged violation of Carrier's Operating Rule 623.
2. Carrier shall be required to clear Mr. Crowell's service record of any notation placed thereon as a result of its wrongful action, and shall compensate Mr. Crowell for the nine days he was improperly held out of service, February 21 through March 1, 1961.

OPINION OF BOARD: The Claimant seeks to have his service record cleared of the notation that he violated Rule 623 on February 14, 1961. He asserts that his suspension for nine days was based upon charges "unfounded and unproved" and that Carrier violated the Agreement when it suspended him "in an arbitrary misuse of managerial authority." Claim is also made for compensation for the period of suspension.

The record contains an 82 page transcript of the hearing accorded Claimant. From a careful review of that record we glean sufficient factual statements, which, if believed by the hearing officer—as they undoubtedly were from the result reached—a finding could be made that Claimant had violated the rule.

Because we are not convinced that Carrier's decision was arbitrary or that the charges made against Claimant were unfounded or unproved, we must deny the claim.

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 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 23rd day of November, 1965.