



Award No. 14497
Docket No. TE-15340

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Murray M. Rohman, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYES UNION
(FORMERLY THE ORDER OF RAILROAD TELEGRAPHERS)**

VALDOSTA SOUTHERN RAILROAD

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

1. Carrier acted arbitrarily and capriciously and in a discriminatory manner, violating Rule 12 of the Agreement, when it dismissed from its service Agent-Telegrapher Leo D. Pridgen who was filling a position of agent at Clyattville, Georgia, a position included in and covered by the scope of the Telegraphers' Agreement.

2. That Leo D. Pridgen shall be reinstated with his seniority unimpaired.

3. That Leo D. Pridgen be reimbursed for all wages lost due to the unfair and improper action taken by the Carrier.

4. Carrier shall be required to reimburse Telegrapher Leo D. Pridgen and/or his family for medical expenses incurred, because of Travelers insurance being cancelled, resulting in wrongful dismissal from service.

5. Carrier shall pay Telegrapher Leo D. Pridgen six percent interest on all money due Telegrapher Pridgen as a result of wrongful dismissal from service.

OPINION OF BOARD: We have concurrently considered the issue presented herein with those contained in Docket No. TE-15023. Inasmuch as we have fully analyzed the contentions of the parties in Award No. 14496, paragraphs 1, 2 and 3 of the instant claim are sustained.

However, paragraphs 4 and 5 of said claim are dismissed inasmuch as the Organization has failed to substantiate any basis for such payment.

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 Agreement was violated to the extent indicated in the Opinion.

AWARD

Paragraphs 1, 2 and 3 of Claim sustained per Opinion.

Paragraphs 4 and 5 of Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 6th day of June 1966.

CARRIER MEMBERS' DISSENT TO AWARDS NOS. 14496, 14497, DOCKETS NOS. TE-15023 AND TE-15340

The disputes as submitted to the Division by the Petitioner were loaded with charges of alleged technical violations on the part of the Carrier, but the Petitioner was curiously quiet, as is the Referee, as to the merits of the disputes.

The record bore out that the Claimant was guilty of conduct that simply cannot be condoned by any Carrier.

The Referee should have taken into account that the delay in conducting the investigation was due primarily to refusal of the Claimant and his representative to participate in such investigation prior to August 14, 1964.

The record contained no proof by the Petitioner that the manner in which the investigation was conducted prejudiced the substantive rights of the Claimant in any manner, and, most important, the applicable Agreement contains no provision as to how such investigations are to be conducted. There is likewise no showing as to how the delay in rendering the decision following the investigation prejudiced the substantive rights of the Claimant.

The disputes should have been decided on their merits, which would have required a denial of the claims in their entirety.

/s/ P. C. Carter

/s/ R. E. Black

/s/ D. S. Dugan

/s/ T. F. Strunck

/s/ G. C. White

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