

Award No. 16345

Docket No. TE-17229

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION**

Arthur W. Devine, Referee

PARTIES TO DISPUTE:**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
THE INDIANAPOLIS UNION RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Indianapolis Union Railway, that:

1. Carrier's dismissal of R. P. Judge, extra telephone operator, on an alleged charge of failure to properly check or have checked the switches for the movement of NYC Train CC-3, resulting in the derailment of said train at Kentucky Avenue on February 17, 1967, is not consistent with the offense, and is an abuse of Carrier's discretion to impose discipline.

2. Carrier shall be required to reinstate Mr. R. P. Judge in service with all rights unimpaired and compensated for all time lost.

OPINION OF BOARD: Claimant was an extra telephone operator, assigned to a relief assignment which worked Kentucky Avenue two nights per week as telephone operator, with assigned hours 3:00 P. M. to 11:00 P. M. On that assignment he was responsible for various line-ups made by the switchtender.

On March 3, 1967, following a fair and impartial investigation, Claimant was dismissed from Carrier's service for his responsibility in connection with derailment of New York Central Freight Train CC-3 westbound at Kentucky Avenue, Union Tracks, on February 17, 1967.

From the evidence adduced at the investigation, it is clear that Claimant was given proper report of the movement of Freight Train CC-3, but that he failed to line, or have the switchtender line, the No. 4 puzzle switch for the movement of the freight train, resulting in the derailment. In fact, during the course of the investigation, the Claimant admitted his dereliction.

Based upon the entire record, including Claimant's prior service record, and considering the importance of enforcing rules with respect to the proper alignment of switches, we cannot say that Carrier's action in dismissing Claimant from its service was arbitrary, capricious or in bad faith. We will 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 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 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 24th day of May 1968.