

Award No. 16586
Docket No. MW-16948

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Jerry L. Goodman, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The dismissal of Trackwalker William S. Aiken was without just and sufficient cause and in violation of the Agreement because of the flagrant disregard for the effective time limitations set forth within Rule 14.

(2) Mr. W. S. Aiken be reinstated and compensated for wage loss suffered by him and his record cleared of the charge, all in compliance with Rule 14 (d).

OPINION OF BOARD: On May 13, 1966 Claimant was arrested on a charge of larceny and was removed from service pending disposition of his case by the Court. On May 26, 1966, Claimant pleaded guilty to the charge and was sentenced. Subsequently, on June 2, 1966, Carrier held a hearing on the property which resulted in Claimant's dismissal from service on June 8, 1966.

Section (B) of Rule 14-Discipline governs the disposition of this case. That section provides:

"(B) Employes for whom a roster standing has been established will not be disciplined or dismissed without a fair and impartial hearing. Suspension pending hearing will not be deemed a violation of this principle. It will not be the policy to suspend employes pending a hearing for relatively minor offenses.

The hearing will be held within ten (10) calendar days of date when charged with the offense or held out of service. Decision will be rendered within ten (10) calendar days after completion of hearing."

Since the hearing in the instant case was not conducted until twenty days after the Claimant had been held out of service, the above provision was violated.

The claim will, therefore, be sustained.

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 by the Carrier.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of September 1968.