

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

THE WESTERN PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Western Pacific Railroad, that:

Manager-Wire Chief T. A. Riggs, Elko, Nevada, was dismissed from Carrier's service without just cause and should be reinstated with all rights unimpaired and paid for time lost.

OPINION OF BOARD: This is a discipline case involving Claimant Manager-Wire Chief who was dismissed from service by the Carrier for his actions while on duty on May 26, 1964. The record shows that Claimant was reinstated to Carrier's service effective October 19, 1964. The claim before the Board is actually for pay for time lost by the Claimant for the period of time he was held out of service prior to the investigation and for the period from his dismissal following the investigation to the time of reinstatement.

A number of procedural issues have been raised by and on behalf of the Claimant. However, a careful study of the complete record convinces us that Claimant's substantive rights under the Agreement were in no manner violated. There is no provision in the Agreement providing that employees will be advised of a specific or precise charge. The charge against the Claimant was sufficient to enable him to prepare his defense. There is no rule in the Agreement which prohibited the Carrier from withholding Claimant from service prior to the investigation. Likewise, there is no rule in the Agreement prescribing who shall prefer charges, conduct hearings, or that the officer conducting the hearing must render the decision or assess the discipline. (Award 16347 and others cited therein.)

As concerns the merits of the case, a review of the transcript of the investigation shows that there was substantial probative evidence to support the charge against the Claimant. Also, in the handling on the property the Carrier called attention to Claimant's prior service record.

Considering the entire record, we do not find that the action of the Carrier was arbitrary, capricious, or in bad faith. The claim will be denied.

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 27th day of September 1968.