

Award No. 16805
Docket No. TE-16133

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
THE PENNSYLVANIA RAILROAD COMPANY

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

Block Operator J. H. Ball, regularly assigned first trick at Mansfield Block Station, Mansfield, Ohio, is entitled to and shall receive compensation of eight (8) hours at \$2.651 per hour for each of the following dates: May 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, (holiday), June 2, 3, 4, 5, 6, 9, 10, 11, 12, 13 and 16, 1963. Claimant was available and willing to work his regular position on the above dates. Carrier has held him out of service since 11:00 P. M., Saturday, May 11, 1963, on hearsay charges and without a hearing.

OPINION OF BOARD: Claimant was a Group 2 Block Operator who was regularly assigned at Mansfield, Ohio, block station to a tour of duty from 7:00 A. M. until 3:00 P. M., daily, with rest days of Fridays and Saturdays. On Friday, May 10, 1963, Claimant was arrested at Columbus, Ohio, for certain activities in which he was engaged. On Saturday, May 11, 1963, Claimant was verbally notified he was being held out of service pending trial and decision in connection with his activities which resulted in his arrest. This notice was confirmed in writing on May 15, 1963. On November 11, 1963, Claimant was formally charged with Violation of Rule E of Carrier's Rules for Conducting Transportation and notified to attend trial on November 15, 1963. Thereafter, on November 30, 1963, Claimant was notified of dismissal for such violation.

Petitioner alleges that Claimant was withheld from service in violation of Regulation 6-A-1 which reads as follows:

"(a) Group 2 employes will not be suspended nor dismissed from service without a fair and impartial trial.

(b) When a major offense has been committed a Group 2 employe may be held out of service pending trial and decision."

There can be no question that Carrier has the right to hold a Group 2 employe out of service when a major offense has been committed. It is our view that the Claimant herein committed a "major offense" within the meaning of

that term as used in the Regulation. Petitioner's main thrust is directed to the length of time that the Claimant was withheld from service pending trial and decision, but acknowledges that the Regulation "imposes no time limit within which an employe must be brought to trial." Since the Regulation contains no limitation as to the time within which an employe must be brought to trial we cannot find a violation of the Agreement. It follows that the claim must 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 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 22nd day of November 1968.