



Award Number 17339

Docket Number CL-17553

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David H. Brown, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES

THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6392) that:

- (a) Carrier violated the Agreement at Chattanooga, Tennessee, when it dismissed Mr. C. R. Theobold, Extra Board Clerk, and Mr. W. C. Broomfield, Relief Clerk, from the service of the Carrier on August 27, 1965, account allegedly mishandling car SOU 5549, loaded by Quaker Oats Company, June 28, 1965, destined Winn-Dixie Stores, Greenville, South Carolina.
- (b) Mr. E. R. Theobold and Mr. W. C. Broomfield shall be compensated for all monetary loss beginning August 27 through October 11, 1965, compensation due to be determined by a check of Carrier records.

OPINION OF BOARD: This is a discipline case in which the Claimants, regularly assigned employees in Carrier's Citico Yard, Chattanooga, Tenn., were dismissed from service on August 29, 1965, for the mishandling of car Sou. 5549 at Chattanooga, June 29, 1965 to July 3, 1965, following investigation conducted on August 27, 1965. Each of the Claimants was restored to service on October 11, 1965, without pay for time lost. The claim is that they be compensated for all monetary loss beginning August 27 through October 11, 1965.

The Board has carefully considered the rather voluminous record in the dispute. We are convinced that Claimants' substantive rights under the Agreement were not violated. It is also clear that Claimants did not properly perform the duties required of them, which contributed to the delay to the car involved. However, it is our considered conclusion that under the circumstances involved the discipline imposed was excessive, and should not have exceeded a suspension of fifteen work days. We, therefore, hold that Claimants should each be compensated for all time lost in excess of fifteen work days.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 discipline imposed was excessive.

A W A R D

Claim sustained to the extent indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1969.