



Award No. 18128

Docket No. CL-18673

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

John B. Criswell, Referee

**PARTIES TO DISPUTE:**

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

**NORFOLK AND WESTERN RAILWAY COMPANY  
(Involving employees on lines formerly operated by  
the Wabash Railroad Company)**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6786) that:

(1) Carrier violated the provisions of Rule 28 particularly paragraph (a), (b), (h) and (i) of the Schedule for clerks, when on December 4, 1969, it improperly, arbitrarily and unjustifiably dismissed Claimant J. A. Karr, following an investigation held on Friday, November 28, 1969, to determine the facts and fix the responsibility, including Claimants, if any.

(2) Carrier will now return Claimant to service with all rights and privileges unimpaired.

(3) Carrier will now compensate Claimant for all time lost as a result of being improperly, arbitrarily and unjustifiably dismissed.

(4) In addition to the money amounts claimed herein, Carrier shall pay Claimant an additional amount of 6% per annum compounded annually on the anniversary date of claim.

**OPINION OF BOARD:** Claimant was dismissed from service of Carrier based on an incident of insubordination.

It is the Organization's contention that this action should be reversed because of procedural defects in the handling of the case.

It is argued that the initial notice of investigation was insufficient. That notice said, in part:

"... to determine the facts and fix the responsibility including yours if any in connection with your alleged insubordination toward Trainmaster A. B. Childress at the Luther Yard Office during your tour of duty which started November 12, 1969."

The notice outlined the type of incident to be investigated, the place it allegedly occurred and those said to be involved. Claimant was present and obviously had notice sufficient to prepare a defense. (Award 14581, Hamilton.)

It is further charged by the Organization that the appeal procedures were defective and did not allow Claimant his full and rightful protection under the Agreement. We do not agree.

These allegations decided, we conclude that the Carrier developed sufficient evidence to support its finding and will not overturn the discipline.

**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 30th day of September 1970.