

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19713

Docket Number SG-19569

Benjamin Rubenstein, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Chicago and North Western Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Railway Company that:

(a) On or about June 30, 1970 the Carrier violated the current Signalmen's Agreement, particularly Rule 60 (as amended) when it placed on file with Mr. J. C. Jacobson's personnel record a copy furnished the Signal Engineer, Mr. V. S. Mitchell, a letter stating that Mr. Jacobson Signal Maintainer at Dalton, Wis., violated Rule 1001 in the Rules of the Engineering Dept.

(b) The Carrier now remove this letter, and no mention of it be placed in his personnel record, whether this record be in the Signal Supervisor's office, the Signal Engineer's office or the personnel office, because of this alleged violation. (Carrier's File: D-9-8-146)

OPINION OF BOARD: The claim here is that the Carrier violated the current agreement between the parties, particularly Rule 60, when it placed in the personnel record file of claimant, a copy of a letter addressed to him by the Signal Engineer, stating that claimant violated Rule 1001 of the Rules, and calling his attention that strict compliance with said Rule is essential to the safety of the claimant and others.

Claimant requests the removal of said letter from his personnel record file, on the ground that the letter is a disciplinary measure and as such it was made in violation of Rule 60, prohibiting discipline of an employee, without an investigation and notice thereof. **The reason for claimant's demand is the fear, that in the event of a disciplinary proceeding against him the letter will be considered in assessing punishment, if he is found guilty.**

A personnel record of an employee, usually, contains the history of his employment and minor incidents or opinions of his performance. At times the opinions are good, at times they may be derogatory. Yet, they are merely opinions or factual incidents. If the employee is subsequently brought up on charges, such notations are not considered as facts in determining his guilt or innocence of the charges levied against him.

The only case on record similar to the one before us, is Award 18244. There, we held, that "based upon the record, there is no basis for finding that the letter complained of was a letter of discipline or that disciplinary action was taken against the claimant."

The facts in the instant case, too, do not support the claim that the letter was a disciplinary action or intended as such. It was, rather, an act of calling attention of the claimant to avoid in the future similar occurrences. It did not find the claimant guilty of any violation. nor did it impose any penalty upon him.

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 Carrier did not violate the Agreement.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. G. Killen
Executive Secretary

Dated at Chicago, Illinois, this 13th day of April 1973.