

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19716
Docket Number CL-19847

Benjamin Rubenstein, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
PARTIES TO DISPUTE: (
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7125)
that:

(a) Carrier violated the Agreement at Knoxville, Tennessee when it removed Chief Caller Mr. H. E. Wood from service for alleged failure to properly call the crew to protect a Special Train scheduled to leave Knoxville at 1:00 p.m. Friday, December 26, 1969.

(b) Mr. Wood shall now be compensated at his daily rate of pay for each work day he was held out of service beginning December 26, 1969, until he was restored to service on February 17, 1970.

OPINION OF BOARD: Claimant had been in Carrier's service about ~~thirty~~-two years. On December 26, 1969, while working as Chief Caller at Knoxville, Tennessee, he was removed from service for failure to properly call a crew for a special passenger train due to depart Knoxville at 1:00 P.M., as result of which the crew reported late for duty, and the special train departed Knoxville at 1:09 P.M., instead of 1:00 P.M., as scheduled. Following claimant's removal from service, investigation was conducted in accordance with Rule 40 of the applicable agreement. He was reinstated to service on February 11, 1970, and reported for his assignment on February 17, 1970. The claim seeks pay for time lost while out of service.

We have carefully reviewed the entire record, including the transcript of the investigation conducted on January 5, 1970. We find that none of the claimant's substantive procedural rights were violated. Discipline was warranted but considering the nature of the offense, the results thereof, and claimant's years of service with apparently no prior discipline, the length of time he was withheld from service was excessive to the extent of being arbitrary. Thirty days suspension should have been ample discipline. We will award that claimant be compensated for all time lost in excess of thirty days up to February 11, 1970. The time lost subsequent to February 11, 1970, was apparently of claimant's own volition.

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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 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:

E. A. Killen
Executive Secretary

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