

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20176

Docket Number CL-20361

Joseph Lazar, Referee

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

STATEMENT OF CLAIM: Claim of the Committee of the Brotherhood (GL-7356) that:

(a) Carrier violated the current working agreement by dismissing Mr. R. J. Kist without just cause, and

(b) Carrier shall now reinstate Mr. Kist with full seniority and all rights unimpaired, and

(c) Carrier shall restore Mr. Kist to service, and

(d) Carrier shall compensate Mr. Kist one day's pay for each day lost beginning June 1, 1972 and continuous until such time as Claimant Kist is restored to service.

OPINION OF BOARD: In its submission to the Board the Petitioner has raised several procedural issues which the record shows were not raised in the handling of the dispute on the property. It is so well settled as to require no citation that this Board, in adjudicating disputes, may not consider issues or defenses not raised by the parties in the handling of the dispute on the property.

Based upon the record of the dispute as handled on the property, the Board finds that none of claimant's substantive procedural rights were violated.

Without reciting the details leading up to claimant's dismissal from Carrier's service, the Board finds no justification for interfering with the discipline imposed by the Carrier. Suffice it to say that there was substantial evidence adduced at the investigation to prove the claimant guilty of conduct that cannot be condoned. The claim will be denied.

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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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 15th day of March 1974.