

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20512
Docket Number SG-20321

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Baltimore and Ohio Railroad Company that:

(a) Carrier violated the Signalmen's Agreement, particularly Rule 52, when on April 5, 1972, it declined to pay Signal Maintainer George T. Conroy for all lost time, less any earnings, for the period of his dismissal involved in NRAB Award 19064.

(b) Carrier should now pay to Signal Maintainer George T. Conroy time equal to the assigned working hours of the Signal Maintainer position he held at time of dismissal, plus general wage increases and less any earnings in or out of service.

/Carrier's File: 2-SB-11-N/

OPINION OF BOARD: Claimant in this dispute was dismissed on March 30, 1970 for falsifying his employment application. A claim was subsequently processed on the property which requested reinstatement for Claimant; no claim for compensation was included. In Award 19064 the Board sustained the claim for reinstatement. The claim before us is a request for compensation related to the time Claimant was in a dismissal status in the earlier dispute.

Petitioner's entire argument is based on Rule 52 which is alleged to be an "automatic" rule; it provides as follows:

"RULE 52 - EXONERATION

If the charge against an employee is not sustained, it shall be stricken from the record. If by reason of such unsustained charge, the employee has been removed from the position held, reinstatement will be made and payment allowed for the assigned working hours actually lost, less any earnings in or out of the service."

Section 3, First (m) of the Railway Labor Act as amended provides as follows:

"The Awards of the several divisions of the Adjustment Board shall be stated in writing. A copy of the Awards shall be furnished to the respective parties to the controversy, and the Awards shall be final and binding upon both parties to the dispute. In case a dispute arises involving an interpretation of the Award the Division of the Board upon request of either party shall interpret the Award in the light of the dispute."

The Awards of this Board are final and binding as indicated above. Furthermore we have held in all Divisions that the Board should refrain from readjudicating disputes that have already been heard and adjudicated. Although either party may, if it so desires, request an interpretation of an Award, as provided in Section 3, First (m) above, we have ruled repeatedly that a Claimant may not bring a series of claims based upon one act to the Board.

For the reasons indicated above, the Claim must be dismissed.

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 Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That the Board does not have jurisdiction over this dispute.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

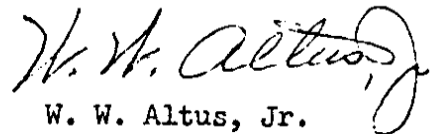

Executive Secretary

Dated at Chicago, Illinois, this 8th day of November 1974.

Dissent to Award 20512, Docket SG-20321

We hold that the Majority has erred in its Award in this dispute. Contrary to the Majority's inference, the present dispute did not request a readjudication of the dispute resolved by Award 19064; it requested a resolution of a dispute which arose as a result of the Carrier's refusal to abide by the parties' Agreement Rule No. 52, a Rule which could neither have been violated nor have become active until it was determined that the discipline, which was the subject of Award 19064, should not be sustained. The record shows that the Respondent is guilty of a second Agreement violation; the Majority should have proceeded to resolve the dispute.

Award 20512 is in error and dissent is registered.



W. W. Altus, Jr.
Labor Member