

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20679  
Docket Number CLX-20751

William M. Edgett, Referee

(Brotherhood of Railway, Airline and Steamship  
( Clerks, Freight Handlers, Express and  
( Station Employees

PARTIES TO DISPUTE: (

( REA Express, Inc.

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-7583) that:

1. The Agreement between the parties was violated when employe Ronnie Sobbe was dismissed from service on October 27, 1972 without just cause, and was further violated when he was denied a fair and impartial hearing on appeal; and
2. REA Express shall reinstate Ronnie Sobbe to service with full seniority rights and benefits; and
3. Claimant shall have his record cleared of all charges and paid for all time lost from October 27, 1972 to date he is reinstated; and
4. REA Express shall pay Claimant interest at the statutory rate for the State of Illinois for any amounts due under (3) hereof.

OPINION OF BOARD: In the handling of this claim on the property and before the Board, REA Express argued that because Claimant had been in its service less than 60 days and his application had not been approved his employment relationship could be terminated without benefit of investigation as provided under Rule 11 (a). REA further argued that the fact that it held an investigation under Rule 11 (a) to determine cause and responsibility for the vehicle accident did not constructively waive its right to disapprove Claimant's application for employment, even after the determination at the investigation that Claimant was guilty of the charges placed against him and his dismissal from the service of REA.

We do not think that the investigation and REA's dismissal of Claimant for cause within his first 60 days' employment erases the right of REA to approve or disapprove Claimant's application under Rule 15 (a) of the Agreement. The fact that Claimant's application for employment was disapproved following the conclusion of the investigation effectively moots any claim that Claimant may have for re-employment.

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 Employee involved in this dispute are respectively Carrier and Employee 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 17th day of April 1975.