

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20798  
Docket Number CL-20818

William M. Edgett, Referee

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

PARTIES TO DISPUTE: (

(Staten Island Rapid Transit Operating Authority

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-7653) that:

(1) Carrier violated the Agreement between the parties when it dismissed Agent-Operator John E. Shea from service effective August 9, 1973, and

(2) Carrier shall, as a result, be required to reinstate Agent-Operator Shea to service with all rights unimpaired and compensate him for all wage loss suffered.

OPINION OF BOARD: Claimant was removed from Carrier's service after an investigation which Carrier found substantiated charges which dealt with irregularities in Claimant's handling of cash and tickets in his position as Agent-Operator. Claimant stresses several points in seeking to have the Board overturn Carrier's findings and action.

The first point relied on by the employee is that the same Carrier officer brought the charges, conducted the investigation and issued the notice of dismissal. The allegation is, of course, that Carrier did not afford Claimant a fair and impartial investigation. This matter has been the subject of a number of claims and authority can be found on both sides of the question. This Division has considered the matter in its recent Award No. 20027. In that Award, the Board noted that "many prior rulings of this Board have found no due process deficiency in the mere fact that a single official serves the multiple functions which obtain in this case."

The use of a single official was not a violation of any specific term of the Agreement. The transcript does not reveal any factor to support a charge of unfairness. This Board has held that the use of a single official is not, per se, a violation of Carrier's obligation to conduct a fair and impartial investigation. Based on the above considerations the charge of unfairness is not sustained.

The Agreement provides for review by an Appeal Hearing officer. Such a review was requested and was had. It has been characterized as "parrotting" the original decision. More is required than a characterization to support a charge that the appeal hearing was not conducted in the manner contemplated in the Agreement. Certainly the fact that the appeal hearing officer supports the decision cannot, alone, provide proof that the review was not as provided by the Agreement.

Carrier acted after a fair and impartial investigation, conducted as provided by the Agreement. Its action was based on substantial evidence produced in the record. There are no grounds here upon which this Board could sustain the claim.

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:

  
Executive Secretary

Dated at Chicago, Illinois, this 29th day of August 1975.