

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20857
Docket Number CL-20783

William M. Edgett, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship
(Clerks, Freight Handlers, Express and
(Station Employees
(
(Robert W. Blanchette, Richard C. Bond, and
(John H. McArthur, Trustees of the Property of
(PENN CENTRAL TRANSPORTATION COMPANY, DEBTOR

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-7571) that:

(a) The Carrier violated the Rules Agreement, effective February 1, 1968, particularly Rule 6-A-1, when it assessed discipline of dismissal on Claimant R. E. Morrison, Cashier in the office of Ticket Receiver in Washington, D. C., a part of the Carrier's System General Offices.

(b) Claimant R. E. Morrison be restored to service with seniority and all other rights unimpaired, and be compensated in the amount of any remuneration which may be due him in accordance with the provisions of Rule 6-A-1 (h).

OPINION OF BOARD: Claimant was dismissed from Carrier's service after an investigation in which Carrier determined that he was guilty, as charged, of the removal of company funds. When Claimant reported for work, on February 26, 1973, he was advised that a check of his bank showed a shortage of \$293.00. A Traveling Auditor was called in and he audited Claimant's bank. His audit confirmed the shortage. Claimant signed two statements admitting that he had taken the money from the bank for his personal use. After the shortage was discovered, Claimant borrowed money from a member of his family for the purpose of restoring the missing funds.

At the investigation Carrier introduced two statements which Claimant had signed on the date that the missing funds were discovered. The import of those statements was that Claimant had taken the funds for his personal use and that after the shortage was discovered he arranged to place a check made out to the Railroad in his bank in order to make restitution. At the investigation he sought to modify the effect of his statements in order to base his defense on the assertion that he had left the check in his bank prior to the discovery of the shortage and that he was only using Carrier's funds to cash the check. Carrier did not accept that explanation.

The Employees assert that Carrier was in violation of the rules when it took Claimant's statements at a time when he was not represented and that he did not receive a fair and impartial investigation as provided by the Rules. The charge, according to the employees, is too imprecise to comply with the Rules. The charge clearly advised the Claimant of the subject matter of the investigation in a manner which permitted him to prepare his defense. The Rule does not require more.

The statements made by Claimant were made a matter of record at the investigation and objection was taken to the fact that Claimant made them at a time when he was not represented. This is not a case in which Claimant had requested and been denied representation. The record shows that Claimant signed the statements voluntarily and did not ask for an opportunity to consult with his representative before doing so. The statements were properly made a part of the record at the investigation. The Board's review of the entire record has not revealed any procedural infirmity or lack of fairness on the part of the investigating officers. The claim must be denied.

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. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 14th day of November 1975.