

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20940
Docket Number MW-21141

William M. Edgett, Referee

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(St. Louis Southwestern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Maintenance of Way Agreement, especially but not limited to, Rule 6 - Discipline and Grievances, when it failed to properly notify Laborer Mr. Earl Little of hearing to be held June 25, 1974; also hearing was not progressed properly and impartially (System File S-74-94/PR-89707).

(2) Laborer Mr. Earl Little be reinstated with all rights unimpaired and with payment for all lost earnings, including travel expense for June 11, 1974.

OPINION OF BOARD: Claimant was dismissed by Carrier on May 30, 1974. A hearing was requested and held on June 25, 1974. He did not attend the hearing and one of the Organization's defenses is that he was not properly notified of the date and time of the hearing. The record, however, does not support that contention. Claimant was notified by the regular mail at his current address that the hearing would be held on June 25 at 10:00 a.m. As it happened, the hearing was reset to 1:00 p.m. on the same date. Claimant did not appear at either time and the hearing was held without him in attendance. Following the hearing there was a suggestion that he had automobile trouble on that date but it is to be noted that he did not telephone Carrier, or his representative, on June 25 to seek delay or postponement in the hearing because of his alleged automobile trouble. The finding must be that Claimant was properly notified of the hearing and that he failed to appear.

The Organization also asserts that the hearing was not held within ten days of the request, as required by the Rule. The record shows that the Assistant General Chairman concurred with Carrier on the June 25 date and thereby waived any objection under Rule 6-1.

Carrier held a hearing, as provided by the Rules, and found Claimant guilty of the charges made against him. The Board finds that Carrier acted within the area of its authority and will not overturn the disciplinary action taken by Carrier.

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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. Paulose
Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1976.