

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21041
Docket Number SG-21038

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claims of the System Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Transportation Company:

(a) On August 3, and August 11, 1973 the carrier violated the current Signalmen's Agreement, particularly rule 60 (revised), during investigation of Ldr. Signn., D. C. Stuckey, and subsequent discipline assessed to him.

(b) Carrier be required to clear Mr. Stuckey's record and remove discipline wrongfully assessed to him.

[Carrier's file: D-9-30-7]

OPINION OF BOARD: Subsequent to investigation, Carrier assessed a twenty (20) day deferred suspension against Claimant concerning an asserted failure to file, timely, an accident report. The Organization alleges certain defects in the handling of the investigation.

Rule 60 requires that investigations "...will be conducted by a supervising officer of the Signal Department." In addition, the rule specifies that the investigation will be held within seven days from date of alleged offense or after information of the alleged offense has reached the supervisor - and that the employee will be advised of the supervisor's decision, in writing, within seven days after completion of the investigation. It is contended that Carrier violated each of these mandates

The transcript of investigation proceedings shows the following:

"Mr. Hansen [Claimant's Representative]

I feel this investigation should be conducted by a supervising officer of the Signal Department.

Mr. Maybee [Investigating Officer]

I am a Supervising officer of the Missouri Division with the Signal Department coming under my jurisdiction.

Mr. Hansen

The Signal Supervisor or his assistant should be conducting this investigation.

"Mr. Maybee

Would you like to postpone the investigation?

Mr. Hansen

I don't feel we should postpone it, we have a Supervising officer of the Signal Department present.

Mr. Maybee

Just to keep the record clear Mr. Hansen it was stated earlier that Mr. Sorensen is a witness therefore he cannot also conduct the investigation and be the interrogating officer.

Mr. Hansen

Mr. Morrill is present in the building, he is the Assistant Signal Supervisor.

Mr. Maybee

We could postpone this investigation pending Mr. Snyder's return to Oelwein or we could continue it and I would conduct the investigation.

Mr. Hansen

We have come one hundred and fifty some miles and I don't feel that we have always..... There still should be a Signal Department Officer conducting the investigation.

Mr. Maybee

Mr. Hansen, I will explain to you the Division management on the Division. We have a Division Manager and under the Division Manager there are four Assistant Division Managers.

Mr. Hansen

Yes, I am very familiar with that.

Mr. Maybee

Your protest will be entered into the record Mr. Hansen, if you do not wish to postpone the investigation at this time we will continue it as it is.

Mr. Hansen

Yes, I would agree to continue it."

Based on the foregoing, we are unable to find a violation as it pertains to the identity of the Investigating Officer.

Concerning the failure to hold the investigation in a timely fashion, the question presented centers around the time the Supervisor became aware of the alleged offense. The Claimant refers to his 7:15 a.m., July 16, 1975 notification to his Supervisor as the incident which triggered the time element, however, there is no showing that the Supervisor was reasonably aware, at that precise moment, of a potential violation. Accordingly, we feel that the investigation was held in a timely fashion.

The record does not substantiate the allegation that the decision was not rendered in a timely manner.

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. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 15th day of April 1976.