

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21535
Docket Number CL-21144

James C. McBrearty, 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-7821, that:

(a) The Carrier violated the Rules Agreement, effective February 1, 1968, particularly Rule 6-A-1, when it assessed discipline of 30 days record suspension on K. Traughber, Car Control Clerk and Crew Dispatcher at Detroit, Michigan.

(b) Claimant K. Traughber's record be cleared of the charges brought against him on September 21, 1973.

OPINION OF BOARD: Claimant's own testimony shows that he did not appear as a witness at the investigation scheduled for 9:00 AM on September 19, 1973. According to Claimant, he marked off on September 14, and went to Tennessee on personal business, fully intending to return on Monday, September 17.

When Claimant could not return "due to personal circumstances," he allegedly tried to contact his immediate supervisor (Mr. Miller), the Assistant Superintendent (W. C. Conn), and a one S. V. Swierzewski, a Crew Dispatcher, by telephone on Monday and Tuesday, the 17th and 18th. Claimant testified that he was unable to contact any of the above persons, because he was always getting busy signals.

Consequently, Claimant allegedly called a friend, Donald Allen, and asked him to contact the Carrier. Mr. Allen testified that he finally contacted a Crew Dispatcher on late Tuesday evening, and allegedly told the Dispatcher that Claimant could not be there for the hearing on the following morning.

In any event this message never went any further, and Carrier had to proceed with its investigation on September 19 without benefit of Claimant, and without knowledge of why he was not there.

Carrier's later interrogation of all crew dispatchers on duty during the period Mr. Allen testified he contacted a crew dispatcher, produced no substantiation of Mr. Allen's testimony.

Consequently, the Board finds that the record contains substantial evidence of Claimant's guilt of the offense with which he was charged. Furthermore, Carrier's 30-day suspension of Claimant was not arbitrary, capricious or excessive (see Third Division Award 15059). Therefore, 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 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 19th day of May 1977.

