

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21550
Docket Number CL-21819

Irwin M. Lieberman, Referee

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

PARTIES TO DISPUTE: (

(Illinois Central Gulf Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood GL-8275,
that:

(a) Carrier violated the Agreement when it wrongfully dismissed
R. E. Collins following an investigation held at Champaign, Illinois on
Wednesday, May 14, 1975, and that

(b) Carrier now be required to return R. E. Collins to active ser-
vice with all rights and privileges unimpaired and with full pay for all wages
lost during the time he has been illegally withheld from service.

OPINION OF BOARD: This dispute involves the dismissal of Claimant, after an
investigation, for his responsibility for the disappear-
ance of over \$400.00 from Carrier's ticket office at Rantoul, Illinois on
March 18, 1975.

An examination of the handling of this dispute on the property re-
veals two fatal flaws in Petitioner's position. First, the Claim from its in-
ception following the investigation was handled as a plea for leniency, up to
and including the handling with Carrier's highest officer. It is well estab-
lished by a host of awards (including 19490, 18901, 18360 and 17900 among others)
that leniency is solely within the prerogative of management. Second, the Claim
as presented in the final handling on the property is distinctly different than
that presented to this Board. It is noted that the allegation of a violation
of the Agreement as well as the request for full pay for time lost was never
raised on the property. Section 3, First (i) of the Act contemplates that the
claim denied by the Chief Operating Officer on the property is the claim which
may be referred to this Board. In a directly parallel situation, in Award 15712,
we said:

"....Not until the claim was presented to this Board did
Petitioner introduce a request for payment of wages lost.
Thus, it is clear that the claim as progressed on the pro-
perty is not the same claim this Board has before it.

In view of the change from a plea for leniency to a claim for
improper dismissal of Mr. Huffman and for payment of all wages
lost, in accordance with well established principles that this
Board will not consider claims which were not made during the
handling of the case on the property, we dismiss the claim."

Based on the reasoning expressed above, the Claim must be dismissed.

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 Claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 31st day of May 1977.

