

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21694
Docket Number CL-21726

Robert W. Smedley, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(Soo Line Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-8198, that:

1. Carrier's action in the dismissal from service of Stephen Tighe, Seniority District No. 2, General Office, Minneapolis, Minnesota, effective May 30, 1975, was unreasonable, arbitrary, capricious and unjust.

2. Carrier's letter of May 15, 1975, notifying Stephen Tighe of Investigation was in violation of Rule 29 in that it did not state a precise charge.

3. Hearing Officer, Mr. R. E. Holland, was not a neutral Hearing Officer. Stephen Tighe was denied due process in that a fair and impartial hearing could not be held with the known prejudice of the Hearing Officer.

4. Stephen Tighe shall have his record cleared of any and all charges which may have been placed against him because of this case.

5. Stephen Tighe shall now be reinstated to the service of the Carrier with seniority and other rights unimpaired.

6. Stephen Tighe shall now be compensated for all wages and other losses sustained account of this unwarranted dismissal.

OPINION OF BOARD: The hearing took place May 22, 1975. From April 1, 1971 to February 1, 1975, claimant was employed as Miscellaneous and Government Freight Clerk. Thereafter he worked as tariff clerk up to the time of his dismissal on May 30, 1975.

The evidence is that claimant Tighe grossly neglected his duties as Miscellaneous and Government Freight Clerk, misplacing waybills and other irregularities resulting in a loss of some \$90,000 to carrier. He had been warned in 1974 to seek overtime or help if needed to keep up with his job, but he did not do so because he "had been turned down" and "disagreed" with some of the orders.

The Manager of Revenue Accounting, R. E. Holland, claimant's superior ~~conducted~~ the hearing. The dismissal letter is from James F. Johnson, Director of Accounting Operations, who reviewed the transcript. The Union objects that the hearing was not fair because Holland was biased and was trying to save his own neck in getting Stephen Tighe fired. We find the hearing transcript quite comprehensive and, despite any predilection on the part of Holland, Mr. Tighe had ample opportunity to tell his story, which fell flat with no real explanation or excuse being offered. Mr. Johnson ordered the dismissal, not Holland.

As to the charge being vague, the letter is not a model of precision, but it does adequately inform to meet the contract requirement that "the precise charge" be stated. It is in general terms and not in dates, amounts and freight bill numbers. But it identifies the job and talks about "negligence" and "failure to follow written and verbal instructions," leaving little mystery as to the charge. Besides, the audit report was available to claimant and his representatives.

We find the dismissal amply supported by evidence. Claimant's procedural and substantive rights were not violated.

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;

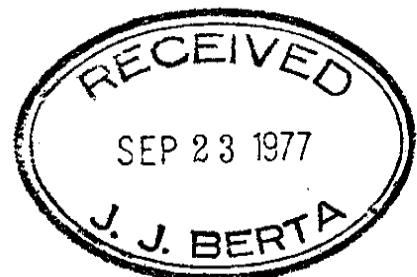
That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

The Agreement was not violated.

A W A R D

Claim denied.



NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Pauls
Executive Secretary

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