

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22090
Docket Number CL-22008

Joseph A. Sickles, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employes
(
(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
(GL-8338), that:

1. Carrier violated the Agreement between the parties, when on the date of September 22, 1975, Mr. F. E. Keen, 1st trick Agent-Operator at Rockwood, Pennsylvania, was assessed discipline of 30 days' actual suspension from service, and

2. Carrier shall, as a result of such action, compensate Mr. Keen, eight (8) hour's pay commencing September 22, 1975, and continuing for all subsequent dates until restored to his position.

OPINION OF BOARD: Claimant was charged with responsibility concerning a failure to deliver a train order. Subsequent to investigation, he was assessed a thirty (30) day suspension from service.

The evidence shows that a crew was cleared by a train dispatcher with three (3) orders and no messages. The dispatcher and the Claimant (an Operator) are required to state and repeat to each other all of the train order numbers in effect to be delivered to the train; however, both the train dispatcher and the Claimant overlooked one train order (a slow order to look out for maintenance of way forces working on the track on which the train operated) and, thus, it was not delivered to the train.

The train was required to make an emergency stop in the slow order area.

The train dispatcher was assessed a ten (10) day suspension for his responsibility in the matter.

We do not find that Claimant's rights were prejudiced by the manner in which the investigation was conducted; and we do find that substantive evidence has been submitted to demonstrate Claimant's culpability.

It is argued that Carrier's operating rules place equal responsibility on both the Train Dispatcher and the Operator and thus the more stringent disciplinary action against Claimant is inequitable. Nonetheless, it appears that the Claimant was guilty of a number of improper actions. He admits that he failed to "hand on" the order. There were interlineations on the Clearance Form "A"; and he (admittedly) only partially complied with the operating rules. One must presume that the purpose of proper completion of the Clearance Form is to assure that this type of dangerous instance does not occur.

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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 31st day of May 1978.