

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22236  
Docket Number CL-22118

Irwin M. Lieberman, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
GL-8399, that:

"Carrier violated the agreement on July 23, 1974, when it unjustly suspended Claimant A. W. Tate, Clerk-Operator, Salisbury, North Carolina, from the service of the company commencing July 23, 1974, to and including August 6, 1974, a period of 15 calendar days.

For this violation, the Carrier shall now compensate Claimant A. W. Tate, Clerk-Operator, Salisbury, North Carolina, by compensating him as follows -

(1) A day's pay, 8 hours at the straight time rate, for each date, July 23, 26, 27, 28, 29, 30, August 2, 3, 4, 5, and 6, 1974.

(2) A day's pay at the time and one-half rate, for each date, July 24, 25, 31 and August 1, 1974, a total of four rest days, which he would have worked had he not been unjustly disciplined.

(3) A day's pay, 8 hours at the time and one-half rate, for Thursday, July 18, 1974, and a day's pay, 8 hours at the straight time rate, for Friday, July 19, 1974, two days lost attending the investigation.

(4) \$43.63 for expenses incurred attending the investigation.

Total pay -----	\$812.76
Total Expenses -----	\$ 43.63
Total Compensation Claimed-----	\$856.39"

OPINION OF BOARD: Claimant was suspended for fifteen days, after an investigation, for allegedly failing to deliver a message to a train.

With respect to the procedural objections raised by Petitioner, examination of the transcript of the investigation does not support the charges. There were no material actions at the hearing which in any way prejudiced Claimant's rights to a fair hearing. The procedural allegation is rejected.

Carrier introduced testimony at the investigatory hearing which established Claimant's mistake. In fact Claimant himself admitted that he overlooked the message, failed to deliver it, and subsequently found it, tore it up and threw it in the trash can. There can be no question but that Carrier established, by substantial evidence, Claimant's guilt.

The suspension for fifteen days has no characteristic which would make it appear unreasonable, arbitrary or capricious in view of the type of infraction involved. The Claim must be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1978.

