

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22440  
Docket Number MS-22407

William M. Edgett, Referee

PARTIES TO DISPUTE:

(Michael Young  
(Delaware and Hudson Railway Company

STATEMENT OF CLAIM: "This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an exparte submission on March 1, 1978 covering an unadjusted dispute between me and the Delaware and Hudson Railway Co. involving the question:

A Request for a hearing, to which I was entitled and which was denied to me which caused my resignation from the Delaware and Hudson Railway Co."

OPINION OF BOARD: Claimant, Michael J. Young, was employed as a plumber in Carrier's Maintenance of Way Department. On Friday, January 28, 1977, claimant attended a meeting with the Assistant Engineer B&B and the Lieutenant of Police to discuss a situation involving the sale of certain scrap material. During the discussion, claimant readily admitted that he had, in fact, taken the material in question from a copper heating element which he had previously replaced in a heater at the Whitehall Enginehouse; and that he had, in fact, sold the material to a scrap dealer.

At the time of the meeting described above, claimant was advised that, if he wished, the Carrier would accept his resignation rather than pursue disciplinary action and/or possible criminal action. Claimant thereupon submitted to the Assistant Engineer B&B a handwritten resignation which was immediately accepted.

Subsequently, by an undated letter which was postmarked January 29, 1977 claimant attempted to recant his resignation of January 28, 1977 and requested "a hearing on charges that I have been accused of". Carrier declined this request on the basis that the resignation of January 28, 1977 had been voluntarily given and therefore claimant's employment relationship had been terminated as of that date.

The request for a hearing on behalf of Mr. Young was thereafter progressed by the representative organization to the highest appeals level without success. Carrier's position remained that the resignation, voluntarily given, terminated the employment relationship and that no hearing was required.

In presenting his case to this Board, Claimant Young has contended that the "resignation was obtained through coercion and while I was under duress". He further argued that he had told the officials at the January 28th meeting that he desired a union representative and that the Police Lieutenant had told him that the union officials had already indicated that "under the circumstances I would be better off if I resigned my employment". The statements in the record from the Assistant Engineer B&B and the Police Lieutenant categorically deny both of these allegations.

We have reviewed all of the material presented to the Board, and have considered all of the arguments advanced at the hearing before the Board held in connection with this case and can find no basis on which to conclude that the resignation which was tendered by Mr. Young on January 28, 1977 was anything other than a voluntary action on Mr. Young's part.

This Board has previously considered the propriety of permitting unilateral withdrawal of voluntary resignations. In an early Award of the Third Division - Award No. 4583 (Carter) - we find the following:

"At the outset it must be stated that a valid resignation terminates all the rights of an employe under a collective agreement covering the work of the position from which he resigned. Consequently, Claimant had no rights under Rule 17(a) or any other part of the Agreement if his resignation was effective in severing his employment.

"\* \* \* The record sustains the contention of the Carrier that Claimant voluntarily resigned his position. A subsequent desire to escape the effect of a resignation has no merit where it was entered into voluntarily at the time of its execution, and fraud or deceit did not enter into its procurement. The resignation signed by the Claimant in this case was effective to terminate all his rights under the collective Agreement."