

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23117
Docket Number 96-22723

Dana E. Eischen, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ St. Louis-San Francisco Railway Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the St. Louis-San Francisco Railway Company:

On behalf of Signal Maintainer H. R. Hendrix, New Albany, Mississippi, account attending investigation at Tennessee Yard November 2, 1977." (Carrier file: D-9559)"

OPINION OF BOARD: Claimant herein seeks reimbursement for travel expenses plus eight (8) hours pay for time spent in attendance at a disciplinary hearing convened by Carrier on November 2, 1977. Claimant was scheduled to work on the day in question and did lose the day's pay by attending the hearing. He was the accused employe at that hearing and Carrier assessed a disciplinary suspension of three weeks. Claimant appealed the disciplinary action and this claim was sustained by the Division in Award 22597.

That position of the present claim seeking travel expenses is not supported by any Rule of the Agreement and, in any event apparently was initially added to the initial demand for damages. However, the claim for the lost day's pay account attending investigation clearly is supported by the plain and unambiguous language of Rule 51(a) and (e) as follows:

"(a) No employe will be disciplined without first being given an investigation. At the investigation he may be represented by a duly authorized representative of the Brotherhood of Railroad Signalmen. He may, however, be held out of service pending such investigation. At least 48 hours prior to the investigation, he will be advised in writing of the specific charges against him and will have a reasonable opportunity to secure the presence of the necessary witnesses and representative. The investigation shall be held within ten days of the date when charged with the offense or held from service. A decision shall be rendered within twenty days after the completion of investigation."

"(e) An employe reinstated under provisions of paragraph (a) of this rule will be compensated for wage loss, if any, suffered as a result of such dismissal or suspension. Earnings in other employment shall be used as an offset in determining the wage loss, if any, suffered by such employe." (Emphasis added)

The record demonstrates conclusively that Claimant was "reinstated under provisions of paragraph (a)" of Rule 51 and that he suffered a wage loss when, but for the disciplinary hearing which subsequently was invalidated, he would have worked a regularly scheduled work day on November 2, 1977.

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 violated.

A W A R D

Claim sustained for 8 hours pay for November 2, 1977.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 15th day of January 1981.

