

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23553
Docket Number MW-23762

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The suspension of twenty-seven (27) days imposed upon laborer John Mazur was without just and sufficient cause and on the basis of unproven and disproven charges (Carrier's File P/R J. Mazur).

(2) The Agreement was violated when the Carrier failed to timely render decision following the investigation held on July 2, 1979.

(3) As a consequence of either or both (1) and/or (2) above, the claimant's record shall be cleared of the charge leveled against him and he shall be reimbursed for all wage loss suffered."

OPINION OF BOARD: Claimant, I. Mazur, a laborer in Carrier's Bridge and Building Department, was suspended from service for 27 days for alleged insubordination. The suspension was effective from June 26, 1979 to July 23, 1979. The Organization requested a hearing in the matter. The hearing was held on July 2, 1979. Carrier, however, did not render a decision within the seven-days required by Rule 43 of the Schedule Agreement.

The Organization argues that this failure of Carrier's hearing officer to render a decision in a timely manner requires that the claim be sustained as presented. Carrier argues that its failure to render a decision within the seven days required by Rule 43 occurred during an intermediate step in the grievance proceedings where time limits are rarely followed and where it is customary for the hearing officer at the conclusion of the hearing to inform the representative orally if there is any basis for altering the discipline imposed.

This Board has carefully reviewed the record of this case and has concluded that the hearing officer's failure to render a decision within the seven days required by Rule 43 is a major contract violation that does have a negative impact on Claimant's due process and contract rights. The Board is not impressed with Carrier's argument that because this violation took place in the early steps of the grievance procedure, it was unimportant and should be ignored.

Carrier points out that Rule 43 is unique in that an employe can be suspended without a hearing. This Board is mindful of that fact and, consequently, thinks that adherence to time limit requirements is especially important in such a situation. Every Division of this Board has attempted, through its decisions, to be meticulously accurate and consistent in applying time limits as written in the Schedule Agreement. The parties in this industry are fully aware of the Board's position on adherence to time limits and the majority of claims have no time limit problems. We see no reason to deviate from a policy of strict adherence to time limits here. This case will be sustained on the time limit issue. The merits of the case need not be reached.

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 Employes involved in this dispute are respectively Carrier and Employes 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.

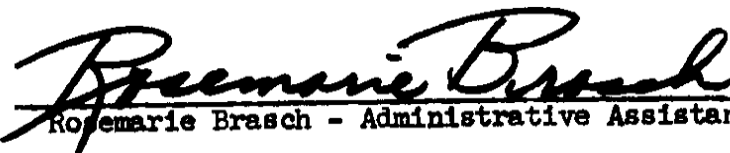
A W A R D

Claim sustained as presented.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant



Dated at Chicago, Illinois, this 10th day of March 1982.