

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23568
Docket Number CL-23850

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,
 { Freight Handlers, Express and Station Employees
 { Louisville and Nashville Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9371)
that:

1. The Carrier acted in an arbitrary, capricious and unjust manner and in violation of the Agreement between the parties when it suspended Extra Clerk F. K. Bilal for ninety (90) days following two (2) investigations held on February 20, 1980.

2. As a consequence, Carrier shall compensate Extra Clerk F. K. Bilal for each day he would have stood to work had he not been suspended, at the rate of the position missed, with a joint examination of the records to determine the amount due.

OPINION OF BOARD: Claimant F. K. Bilal was an Extra Clerk on the Extra Board at Mobile, Alabama. He was charged with making errors on waybills while on duty at Pascagoula, Mississippi, on February 7, 1980. A hearing into the matter was scheduled for February 20, 1980. On February 19, 1980, Claimant missed a call when he was marked on the board ok for the call. Carrier also scheduled the investigation into the missed call on February 20, 1980. At the conclusion of the two hearings, Claimant was found guilty as charged and assessed a 90-day suspension from service.

Petitioner alleges that Claimant was denied a fair hearing and that since one penalty was imposed for two infractions, Claimant was denied his right to appeal. He was not sure what portion of the 90-day suspension was assessed for what infraction, so he could not prepare a defense on appeal. Petitioner asks that the suspension be set aside and Claimant made whole for all lost wages.

After a thorough review of the record, it is the opinion of this Board that Claimant was granted a full and fair hearing on both charges and that Carrier did not violate the Agreement by holding two separate hearings and granting only one penalty.

The record also reveals that claimant, by his own admission, was guilty as charged on both counts. When the penalty imposed is considered, this Board can find no basis in this case for substituting its judgment for that of Carrier.

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 Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

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: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

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

