

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24237
Docket Number CL-23755

Carlton R. Sickles, Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,
Freight Handlers, Express and Station Employees
{ Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-9318) that:

1. Carrier violated the agreement rules, particularly Rule 21, when under date of February 10, 1978, it assessed a ten (10) day suspension to Mr. Louis J. Wierichs, Agent at Appleton, Wisconsin, account investigation held on February 8, 1978, and

2. Carrier will be required to compensate Mr. Louis J. Wierichs for all time lost account of suspension at the rate of his regular assignment, and to include any other losses incurred.

OPINION OF BOARD: A procedural issue has been raised; namely, that in spite of the applicable rule providing that "The investigations shall be held within seven calendar days of the alleged offense or within seven calendar days of the date information concerning the alleged offense has reached his supervising officer" in that the investigation herein was held more than seven days after the information with respect to the alleged violation was made known to the Carrier. The Carrier's defense is, "This investigation was scheduled for February 6, 1978 as a result of a letter dated January 30 and received January 31. It was then postponed until February 8 until all necessary people could be available. The seven-day time limit was complied with". It is the position of the Carrier that having scheduled the investigation for February 6, 1978 within the seven-day time limit was adequate even though it unilaterally postponed the investigation date until February 8 which was not within the seven-day period.

This Board has traditionally held that the time limits set out in the rules must be strictly adhered to. This provision applies to both parties. This material procedural defect was raised on the property and, therefore, this Board will sustain the claimant in this matter.

Having decided this matter on this procedural basis, it is not necessary to consider the other issues in the matter.

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;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

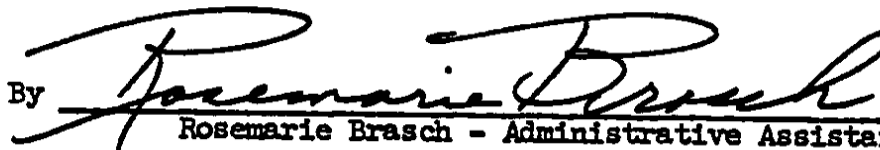
A W A R D

Claim sustained.

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 14th day of March 1983.

