

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25451
Docket Number SG-25634

Eugene T. Herbert, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Missouri Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Missouri Pacific Railroad Company that:

(a) Carrier violated the May 1, 1964 Signalmen's Agreement, as amended, particularly Article VII-Discipline and Investigations Rule 700, when on January 7, 1983 it suspended Communications Maintainer, Carl Ellis, from service without just and sufficient cause, for thirty (30) days as a result of investigation held December 30, 1982, in trainmasters office Houston, Texas.

(b) Carrier violated Rule 700 (d) when it failed to furnish the employe or his representatives with a copy of the transcript and discipline assessed within ten (10) days, as requested by them on page 4 of the transcript of the investigation.

(c) Carrier should now be required to comply with Rule 700 (f) which reads: "(f) If the charges preferred against an employe are not sustained, the record shall be cleared of the charges; if suspended or dismissed, the employe will be reinstated to his former position, unless otherwise mutually agreed, and will be compensated for the actual wage loss, if any, suffered by him."

(d) We claim on December 30, 1982, three (3) hours pay for Mr. Ellis at his straight time rate of pay, mileage at the prevailing rate from his home to the hearing room and return, plus his expense for lunch as provided in Rule 806, because he attended the hearing under instructions from the railroad company to appear as his witness.

[General Chairman file: 83-1-GD. Carrier file: B-225-947]

OPINION OF BOARD: Such procedural errors as the Organization alleges were committed by Carrier in the conduct of this case neither impaired nor prejudiced the Organization in the presentation of its case. A mere technical violation of the procedural rules will not constitute a basis for reversal of a decision where no prejudice results to Claimant. The Board concludes that Claimant was accorded full due process under the Agreement.

As to the merits of the case, substantial evidence to support the charges against Claimant was received at the investigation. The finding of his culpability in the matter was neither arbitrary nor capricious and the discipline meted out was neither unreasonable nor excessive.

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

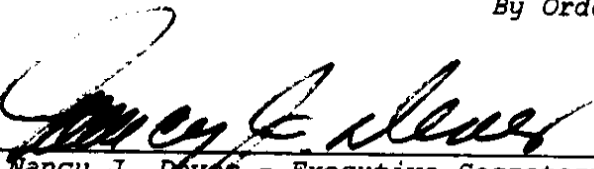
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of May 1985.