

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26293  
Docket Number CL-26088

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,  
(Freight Handlers, Express and Station Employees  
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood  
(GL-9955) that:

1. Carrier violated the effective Clerk's Agreement when on November 22, 1983, it treated Mr. Edward Pollard in an unjust manner by threatening him with demotion and/or loss of employment for asserting his contractual rights.

2. Carrier shall be directed to cease any unjust actions against Claimant."

OPINION OF BOARD: This dispute deals with an allegation of threats made with respect to Claimant at the conclusion of an Unjust Treatment Hearing on another subject. The Hearing ended on November 22, 1983, and was concerned with a charge that Carrier had improperly refused to grant Claimant the vacation of his choice. That matter was concluded by Third Division Award 25943 in which the Claim was denied.

The Organization contends that at the conclusion of the Hearing on November 22, 1983, the Hearing Officer, in the presence of two Organization Officials, made threatening remarks to Claimant in that he could cause Claimant to be disciplined or disqualified. The Organization argues that such actions constituted an improper attempt by Carrier to deter the Claimant from pursuing his contractual rights.

Carrier, in denying that anything improper transpired, characterized the conversation as an attempt at corrective criticism with regard to Claimant's work. Carrier insists that there was no attempt to deter Claimant from pursuing his contractual rights. Carrier introduced evidence at the Investigation that there had been difficulty with Claimant's performance and this was not the first time his work had been discussed with Claimant.

Claimant was afforded full due process in the investigative process concerning this Claim. While the record indicates that Carrier might have been better advised to counsel Claimant concerning his work at another time, unrelated to the Unjust Treatment Hearing, there was nothing improper in the conversation with Claimant and his Organization Representatives. No demonstrable violation of the Agreement took place, according to the record, and Claimant was not improperly "threatened." Therefore, it must be concluded that the Claim is without merit.

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 24th day of April 1987.