

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26299
Docket Number CL-24702

Josef P. Sirefman. Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees

PARTIES TO DISPUTE: (

(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9636) that:

1. The Carrier violated the effective Clerks' Agreement when on March 31, 1981, it unjustly treated Clerk Joseph Russo when he was interrogated by Sergeant F. Benigno during which he was alleged to have perpetrated numerous improprieties, including criminal acts, without supportive evidence or witnesses thereto.

2. The Carrier shall now be required to provide Clerk Joseph Russo with a letter of apology for any and all indignities suffered as a result of his interrogation by Sergeant F. Benigno and all reference to the interrogation of March 31, 1981, and related matters thereto, shall be removed from Mr. Russo's record."

OPINION OF BOARD: This Claim arises out of the questioning of Claimant, a Clerk, by Sgt. F. Benigno of the Carrier's Police force on March 31, 1981, as the result of a complaint by another employee. An unjust treatment hearing under Rule 34 was held on May 29, 1981, and the Chief of Motive Power, who also served as Hearing Officer, determined that the record of Hearing did not support Claimant's contention.

Arguably this questioning could well have been limited to Claimant's conduct with respect to the employee who made the complaint. Nevertheless, there also had been allegations made by this Complainant about Claimant's conduct with respect to several other employees, and in the broadest sense Carrier, through its Police force, was under a duty to investigate these as well in some manner. Given the informal nature of the questioning process, this Board is persuaded from the record that Claimant was afforded minimum due process under the circumstances. As there were no other participants in or witnesses to the questioning, other than Claimant and Sgt. Benigno, it was no violation of Rule 30 to confine the Hearing to their testimony. Given the nature of a Rule 34 Hearing it was not inappropriate for the Hearing Officer to render the post-Hearing decision; see Third Division Award 24476. Finally, Claimant was given a fair and impartial Hearing, and was afforded all the procedures provided in the Agreement.

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.