

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

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

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood  
(GL-10031) that:

- No. 1
1. Carrier violated the Agreement Rules, particularly Rule 21, when under date of August 29, 1984, it disciplined Mr. T. V. Rhodes, Telegraph Operator, Sterling, Illinois, with a thirty (30) day deferred suspension on the basis of a formal investigation which was held on August 24, 1984, at West Chicago, Illinois, and
  2. Carrier shall now be required to remove the suspension from Mr. Rhodes' record and compensate him for all time lost, if any, as a result of the violation of the Agreement.
- No. 2
1. Carrier violated the Agreement Rules, particularly Rule 21 when under date of August 29, 1984, it disciplined Mr. W. R. Brown, Telegraph Operator, Nelson, Illinois, with a forty-five (45) day actual suspension on the basis of a formal investigation which was held on August 24, 1984, at West Chicago, Illinois, and
  2. Carrier shall now be required to remove the suspension from Mr. Brown's record and compensate him for all time lost as a result of the violation of the Agreement.
- No. 3
1. Carrier violated the Agreement Rules, particularly Rule 21, when under date of August 29, 1984, it disciplined Mr. D. W. Urwin, Telegraph Operator, Clinton, Iowa, with a fifteen (15) day actual suspension plus an additional ten (10) days' suspension (or a total of 25 days suspension), on the basis of a formal investigation which was held on August 24, 1984, at West Chicago, Illinois, and
  2. Carrier shall now be required to remove the suspension from Mr. Urwin's record and compensate him for all time lost as a result of the violation of the Agreement."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or 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.

Parties to said dispute waived right of appearance at hearing thereon.

The Board has carefully reviewed the entire record in this matter and we conclude from this review that we essentially agree with the Organization.

A full reading of the transcript of the hearing conducted on the issue at dispute, coupled with the content of the correspondence exchanged on the property reveals the reasons for charging the Claimants with an offense and for the subsequent investigation. From this review, it is apparent that one of the Claimants failed to accurately repeat a Train Order to the Dispatcher. The other two Claimants read it back verbatim to the Dispatcher, but neither of the Claimants, nor the Train Dispatcher, noticed an error made by the Claimant who had incorrectly read the Train Order in the first place. Because of these failures, the Carrier concluded that "Consequently the Train Dispatcher gave a complete time to an incorrect Train Order." In essence, the Carrier found that the actions of the three Claimants were improper and, as shown by the Hearing Officer's comments during the hearing, in violation of certain of the Carrier's rules.

However, the charge is void of any of these elements (which the Carrier apparently used in its deliberations) and it does not contain the degree of precision necessary for the preparation of a defense. The Board also observes that the requirement to notify the Claimants at least 48 hours prior to the scheduled date of the hearing was strained to an unreasonable degree.

Accordingly, while we have also carefully considered the forceful arguments of the Carrier's advocate before us, because of all of the foregoing, the claim is sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 17th day of May 1988.