

The Third Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(
(Detroit & Mackinac Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Organization
(GL-10427) that:

1. Carrier violated the Agreement, particularly Rules 24 and 25, when it disciplined and suspended Tawas Clerk Mr. G. Bird following a May 17, 1989, investigation in which it failed to prove the charges and failed to provide Claimant with a fair and impartial hearing.

2. Carrier shall now be required to compensate Mr. Bird for all straight-time and over-time wages and work opportunities he lost as a result of being reassigned pending the investigation, attending the investigation and being suspended from service for fourteen (14) calendar days commencing May 29, 1989, as well as clear his record of any mention of the discipline."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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.

It is clear from a review of the record in this case that a sustained award is required.

The facts, summarized as succinctly as possible, are that on May 8, 1989, Claimant was "directed to report" on May 17, 1989, for an investigation in connection with two (2) enumerated charges. Following the completion of the investigation, Claimant was suspended from the Carrier's service for fourteen (14) calendar days beginning May 29, 1989.

The Agreement Rule which is applicable in this case is Rule 25 Investigation and Hearing which reads, in pertinent part, as follows:

"An employee who has been in the service more than sixty (60) days or whose application has been formally approved shall not be disciplined or dismissed without investigation and hearing. He may, however, be held out of service pending such investigation and hearing. The investigation shall be held within seven (7) days of the date when charged with the offense or held from service."

The time limit as set forth is clear, unambiguous and mandatory. It has not been met by the Carrier in this case. We will not, therefore, examine the merits of the discipline inasmuch as the Investigation was not timely held. This Board has ruled in many cases, too numerous to require citation here, that time limits such as those found in Rule No. 25 are meant to be complied with. When they are not complied with, we will sustain the Claim of the Organization.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 29th day of August 1991.