
TRANSPORTATION COMMUNICATIONS :
INTERNATIONAL UNION :
"Organization" : Case No. 79
 :
vs. : Award No. 79
 :
CONSOLIDATED RAIL CORPORATION :
"Carrier" :
 :

Claim of the System Committee of the TCU (CK-484-D) that:

(b) Carrier violated Rules 42, 43 and 44 of the Rules Agreement when it failed to:

(2) When the Manager-Labor Relations failed to grant the hearing on appeal within 10 calendar days from receipt of appeal.

OPINION OF THE BOARD

By letter dated November 15, 1989, the former wife of the Claimant, who is also an employee, and married to a third Carrier employee, informed the Carrier of issues that were disrupting Carrier's operations at the Materials Department in Selkirk, New York. On November 20, 1989, local management met with the

Claimant and the husband (W. A. Phillips) to discern the circumstances of the situation. In a letter dated November 28, 1989, Claimant detailed six occasions of misconduct toward him by fellow employee Phillips and requested an unjust treatment hearing pursuant to Rule 44. Carrier denied the request.

Rule 44, states as follows:

An employee who considers himself unjustly treated, otherwise than covered by these rules, shall have the same right of investigation, hearing or appeal and representation as provided in Rules 42 and 43, if written request which sets forth the employee's complaint is made to his supervisor within thirty (30) calendar days of cause of complaint.

The Organization contends that Claimant is entitled to an unjust treatment hearing pursuant to Rule 44. The Organization argues that Carrier is historically reluctant to provide such hearings, and must be required to do so in this case.

Carrier contends that a Rule 44 hearing is not required in a situation such as this, which involves personal conflict between employees and not action by the Carrier. Furthermore, Carrier notes that Claimant was afforded an opportunity to discuss the situation with management.

The Board has determined that the claim must be denied.

An examination of Claimant's November 28, 1989 letter clearly attributes the actions complained of to a co-worker and alleges no unjust treatment on the part of the Carrier. Clearly, Rule 44 is intended to apply to Carrier/Employee disputes, not those between employees. While it is true that Claimant heard indirectly that a Carrier supervisor had made derogatory comments


about him, no action of Carrier was based upon these comments. Furthermore, the alleged comments were made in an informal fashion, and when Claimant confronted the supervisor informally, he denied making them. In addition, it is apparent that Claimant's main dispute is not with Carrier, but rather with individuals concerning a domestic situation. In these circumstances, Carrier was not obligated to provide an unjust treatment hearing for an essentially private dispute.

AWARD

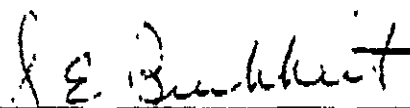
Claim denied.



J. BURTON
Carrier Member



C. H. BROCKETT
Organization Member



S. E. BUCHHEIT
Neutral Member

3-31-94