

AWARD NO. 8
Case No. 8

SPECIAL BOARD OF ADJUSTMENT NO. 259

THE ORDER OF RAILROAD TELEGRAPHERS)
)
vs)
)
NEW YORK CENTRAL RAILROAD, EASTERN DISTRICT)
(except Boston and Albany Division) and NEW)
YORK DISTRICT)

STATEMENT OF CLAIM:

1. Carrier violated the provisions of the agreement between the parties when it entered a deferred suspension of 5 days against the record of E. A. Clyne.
2. Carrier violated the provisions of the agreement between the parties when it suspended E. A. Clyne from work on his position as Telephoner-Leverman, at SS SK, Sedgwick Avenue, on Sunday, March 9, 1958.
3. Carrier shall be required to clear the record of E. A. Clyne by removing the entry of the 5 day suspension, and compensate E. A. Clyne in the amount of \$9.52 for 4 hours' time consumed in attending the hearing on March 10, 1958.
4. Carrier shall be required to compensate E. A. Clyne in the amount of \$19.04 for time lost on account of being suspended from work on March 9, 1958.

OPINION OF BOARD:

On Thursday, March 6, 1958 Claimant E. A. Clyne failed to report at SS-SK as of the start of his tour of duty commencing at 11:30 P.M. Upon being advised by the second trick employee at that location that he had no relief, Carrier telephoned Claimant's house at 11:50 P.M. and received no answer. After waiting an additional period for Claimant's appearance, Carrier assigned the nearest extra man available to cover Claimant's position. Claimant Clyne reported by telephone at 12:35 A.M., over an hour after he was due on the job. He stated that he had been delayed due to a flat tire and had been unable to get to a telephone. Carrier advised Claimant that he could not work that night since another employee had already been directed to cover the position. Carrier also informed Claimant he was being held out of service pending investigation. As a result of the hearing conducted on March 10, a deferred suspension of five days was assessed against Claimant's record for violation of Rule 702 (re reporting for duty at the required time). The one day suspension due to being held out of service was allowed to stand.

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Upon the basis of the record in this case, we are of the opinion that Carrier was justified in imposing the five day deferred suspension. The charge against Claimant was not of such a serious nature as to warrant a suspension from duty pending investigation, however. While the Agreement provides that an employee may be held out of service pending investigation, we find that Carrier's action in doing so in this instance was an abuse of discretion. Thus Claimant is entitled to be compensated for time lost in the amount of one day at pro rata rate. The five day deferred suspension must be allowed to stand. Since Claimant's guilt was established as a result of the hearing on March 10, there is no basis for granting his request for reimbursement for time spent at said hearing.

AWARD:

Parts 1 and 3 of claim denied. Parts 2 and 4 of claim sustained.

/s/ Lloyd H. Bailer
Lloyd H. Bailer, Chairman

/s/ R. J. Woodman
R. J. Woodman, Employee Member

/s/ Chas. N. Faris
Chas. N. Faris, Carrier Member

New York, New York
December 19, 1958.