

SPECIAL BOARD OF ADJUSTMENT NO. 305

THE ORDER OF RAILROAD TELEGRAPHERS

vs.

MISSOURI PACIFIC RAILROAD COMPANY  
(Southern & Western Districts)

AWARD NO. 11  
DOCKET NO. 11  
(BU 4895-31)

STATEMENT OF CLAIM:

"Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Railroad, that:

- (a) The Agreement between the parties was violated in the treatment accorded W. H. Crouch by dismissing him from service as the result of an alleged investigation conducted November 8, 1958.
- (b) Carrier shall now restore W. H. Crouch to service with seniority rights unimpaired and compensation for salary loss sustained retroactive to and including October 23, 1958."

OPINION OF BOARD:

Upon a thorough review of the record before us, Carrier discharged the employee from its service following proper investigation and hearing conducted by Carrier.

The record is replete with evidence that the employee involved did refuse to comply with instructions of his superior officer to go to Paragould to fill a position as requested, and the Board finds that Carrier was properly within its rights in concluding that employee was guilty of insubordination by his refusal to comply with the instructions of his superior officer.

The Board further finds from the record here that evidence is contained as to whether Carrier has been properly complying with provisions of the Agreement in the assignments required to be performed by extra operators, and to the effect that certain operators were favored in not being required to accept extra assignments away from their homes. This evidence will not be considered as having any bearing upon the matter before us.

In view of the record here, we agree that the employee was guilty of the charges made against him by the Carrier.

The Organization further contends Carrier has not complied with the provision of Rule 16 (d), Discipline and Grievances rule, in that the representative of claimant was not furnished a copy of the decision made by Carrier. The Carrier contends otherwise, but under the facts here we do not believe this is material.

Considering the matter before us, we find that the charges made by Carrier should be sustained. However, from the facts of record here, and considering the claimant's record while in this Carrier's service, we find that the discipline

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assessed by the Carrier was excessive. In view of the fact that the claimant has now been out of service for approximately two years, we believe that the ends of justice have been served in this case and that the claimant should be reinstated to his position, with seniority rights unimpaired, within fifteen days following the date of this award, but without pay for time lost.

FINDINGS: Claim should be sustained to the extent as set out in the foregoing Opinion.

A W A R D

Claim sustained as per Opinion and Findings.

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/s/ Donald F. McMahon  
Donald F. McMahon - Chairman

/s/ R. K. Anthis  
R. K. Anthis - Organization Member

/s/ G. W. Johnson  
G. W. Johnson - Carrier Member

St. Louis, Missouri  
June 3, 1960

File 380-1888

