

SPECIAL BOARD OF ADJUSTMENT NO. 100

PARTIES) The Order of Railroad Telegraphers
)
TO)
)
DISPUTE) St. Louis Southwestern Railway Company

STATEMENT OF CLAIM:

1. Carrier violated the terms of the Telegraphers' Agreement when, on July 5, 1956, acting arbitrarily and capriciously, it relieved and removed Agent Ovid Cook from his assigned position as Agent at Jonesboro, Arkansas, on the mere assumption that, "it is apparent that hereafter you will not be able to satisfactorily perform the duties of Agent at Jonesboro, Arkansas."

2. Agent Ovid Cook shall now be restored to his position as Agent at Jonesboro, Arkansas, and be compensated for all time lost by him, as a result of Carrier's arbitrary action, each day subsequent to September 26, 1956, the date on which Chief Surgeon Wm. Hibbitts, St. Louis Southwestern Railway Lines Hospital Trust, found him (Cook) sufficiently recovered and able to resume his duties.

FINDINGS: Claimant here was agent at Jonesboro, Arkansas. He was relieved from his position July 5, 1956. Thereafter he requested that he be returned to service but his request was denied.

Article 27-2 of the current agreement reads as follows:

"An employee disciplined, or who considers himself unjustly treated, shall have a fair and impartial hearing, provided written request is presented to his immediate superior within five (5) days of the date of the advice of discipline, and the hearing shall be granted within five (5) days thereafter."

Under the application of the above rule, when claimant was relieved on July 5, 1956, he had the right to request an investigation to determine whether or not he was properly removed from the position or whether the action of the Carrier was arbitrary, but no request for an investigation has been made in this case. Therefore, we are forced to hold that in the absence of claimant complying with the plain wording of the rule there is nothing that this Board can do but to interpret the rules to mean that claimant here has failed to avail himself of the provisions of the rule.

AWARD: Claim denied.

/s/ Frank P. Douglass
Frank P. Douglass, Chairman

/s/ O. C. Jones
O. C. Jones, Employee Member

/s/ L. C. Albert
L. C. Albert, Carrier Member

Dissenting.

DISSENT TO AWARD NO. 99

The issue involved claimant's physical condition and age, but claim denied on basis that Article 27 (Discipline Rule) was not followed by protestants. Article 27 was not involved, nor was it injected into the case prior to date of hearing before this Board, December 11, 1956.

For these reasons we dissent.

/s/ O. C. Jones
O. C. Jones, Employee Member

Tyler, Texas
December 11, 1956.

12/17/56