

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
and
THE BALTIMORE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM:	Claim of the System Committee of the Brotherhood that Anthony Damiano, Stowman, Pier 21, North River, New York, N. Y., who was dismissed from service on April 13, 1956, be returned to service and compensated for all time lost, less earnings made in other employment during time out of service.
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After investigation the claimant was dismissed on charges of gambling on B&O property and of roughing up a Patrolman (Special Officer) while in the performance of the latter's duty.

It is questionable as to whether or not Rule 47(c) contemplates a repetition (on appeal) of the full scale investigation held before the first hearing officer as contended by the employees. However, it is not necessary for us to decide that question inasmuch as it is not shown that the employees complied with the technical requirement of Rule 47 (c) in serving a copy of the demand for a "hearing" upon the officer whose decision was being appealed, and the failure to do so would be fatal insofar as the right to such a "hearing" is concerned.

The claimant had been employed by the Carrier for only a few months and so far as the Board is informed he has had a good record during that period of service. Considering the nature of the evidence on the more serious charge of

roughing up the patrolman and the otherwise apparently good record of the claimant we find that dismissal was too severe a penalty and that the claimant should be restored to duty with seniority unimpaired but without pay for time lost.

AWARD

Claim disposed of as indicated in Findings.

/s/ Francis J. Robertson
Francis J. Robertson
Chairman

/s/ E. J. Hoffman
E. J. Hoffman
Employee Member

/s/ T. S. Woods
T. S. Woods
Carrier Member

Dated at Baltimore, Maryland this
1st day of December, 1958