

AWARD NO. 4
Case No. 3

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:

Claim of the General Committee of The Order of Railroad Telegraphers on the New York Central System--(Lines Buffalo & East), that:

1. Carrier violated Article 32 of the Telegraphers' Agreement when it assessed a discipline of fifteen days record suspension against Mr. E. J. Costello, Assistant Agent, Fordham, New York, without just cause.

2. Carrier shall now reimburse E. J. Costello for four (4) hours' pay at the pro rata rate of his position for time consumed in attending an investigation January 23, 1957, and shall remove the assessed discipline to clear the record of E. J. Costello.

OPINION OF BOARD:

On January 20, 1957, Assistant Agent Costello, regularly assigned at Fordham, New York, left his office for the purpose of fixing the furnace at the station. When he left the office, his working funds were in the till and his excess funds were in the safe, which was unlocked. Claimant Costello locked the office door upon leaving, but when he returned he discovered that the funds in the safe (amounting to \$560.00) were missing.

On January 23, 1957, Carrier conducted a hearing on this matter with Claimant and his representative present. Following the hearing, Carrier assessed a deferred (or recorded) suspension of 15 days on the ground that Claimant had violated the provisions of Carrier's Treasury Department Circular No. 29.

Investigation conducted immediately after the theft was discovered revealed that the lock on Claimant's office door was defective. Nevertheless it is established that Claimant violated Circular No. 29 in that he failed to place all of his funds (including those in the till) in the safe and to lock same before leaving the office unoccupied. These instructions are specifically set forth in this circular.

Claimant contends it had been past practice to safeguard Carrier's funds only by locking the office door in such situations. This is not a valid defense, however. Carrier's rules for safeguarding its funds as set forth in the subject unilateral instructions are both reasonable and necessary, and should be followed to the letter. Claimant's failure to do so made him liable to disciplinary action. The fact that the office door lock was defective did not reduce this liability.

AWARD NO. 4
Case No. 3

Carrier was justified in assessing a fifteen day deferred suspension against Claimant. In view of this conclusion, there is no possible basis for sustaining Claimant's request for reimbursement for the time spent attending the hearing held on January 23, 1957.

AWARD:

Claim denied.

/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