

Award No. 5522
Docket No. 11516

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

WABASH RAILWAY COMPANY

STATEMENT OF CLAIM: Request of Yardman Sam Turner, Kansas City Terminal, for compensation at yard rates on July 20, 21 and 22, 1939.

FINDINGS: The First Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute waived hearing thereon.

Claimant Yardman Sam Turner was required, on July 14, 1939, to make a statement concerning accident that had occurred about 3:00 A. M. the same day. Claimant requested he be permitted to have counsel present at the investigation, at which time other employes were to be interrogated. This request was complied with by the carrier to the extent that the "representative" heard only the testimony of Yardman Turner, but arrangements were not made for the representative to hear other evidence and question other employes.

In letter dated July 19, 1939, claimant was advised that as result of investigation held on July 14th, he would be suspended from the service for a period of three (3) days. The claim therefore is for time lost, July 20, 21 and 22, which represents time Yardman Turner was held out of service.

The Division holds Article 21 (b) was not complied with by the carrier on account of its failure to arrange for the representative of Yardman Turner to interrogate other witnesses; and Article 21 (d) was not complied with in giving notice to claimant Turner of discipline to be administered.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division

ATTEST: (Sgd.) T. S. McFarland
Secretary

Dated at Chicago, Illinois, this 19th day of March, 1941.