

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

With Referee Harold M. Weston

Award 22 349

Docket 37 980

PARTIES (United Transportation Union (successor to Brotherhood of
TO (Railroad Trainmen)
DISPUTE (Seaboard Air Line Railroad Company

STATEMENT OF CLAIM: "Claim is made for time lost by A. E. Barber, Yard Conductor, for time lost as result of 30 days' actual suspension assessed for violation of Rule 832 and 840, October 12th, 1958. The 30 days' suspension began November 6th, 1958 and ended December 5th, 1958, inclusive. Time lost is represented by A. E. Barber's tickets Nos. 1 thru 20 dated November 8th, 1958 to December 3rd, 1958.

"Claim is also made for removal from record any reference made to this discipline."

FINDINGS: The First Division of the National Railroad Adjustment Board, upon the whole record and all the evidence, finds that the parties herein are carrier and employe within the meaning of the Railway Labor Act, as amended, and that this Division has jurisdiction.

Hearing was waived.

From the evidence, it is clear that Mr. Vaughan had concluded several days prior to the hearing that claimant was guilty and that he should admit this in the form of a written statement, thereby obviating the need for an investigation.

These facts disqualified Mr. Vaughan as presiding officer of the investigation which followed, particularly since he had prejudged the case and entered testimony against claimant. They prevented claimant from receiving a fair and impartial hearing.

For the above stated reasons, we find claimant was not afforded a fair and impartial investigation with Mr. Vaughan as the presiding officer and the discipline imposed must be set aside and the claim sustained. Awards of this Division in point here, are Nos. 8259, 8376, 10 616, 11 910, 15 656, 16 699, 19 378, 19 863, 19 873, 20 335 and 21 398.

AWARD: Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
BY ORDER OF FIRST DIVISION

DATED AT CHICAGO, ILLINOIS
THIS 2nd DAY OF October 1973.

ATTEST: Executive Secretary
National Railroad Adjustment
Board

By: *Tracy J. Lewis*
Assistant Executive Secretary