

Award No. 17069
Docket No. MS-16355

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Jerry L. Goodman, Referee

PARTIES TO DISPUTE:

PHILLIP CORATHERS AND CLEMENT WHITE
DETROIT AND TOLEDO SHORE LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Please accept this letter as formal notice of the intention to file an ex parte submission thirty days from the date of this notice in connection with the claims of Phillip Corathers and Clement White against the Detroit & Toledo Shoreline Railroad arising out of their wrongful discharge by said carrier which wrongful discharge was confirmed on July 29, 1965 by R. A. Altmeier, Superintendent, at a hearing conducted at Lang Yard, Toledo, Ohio. You are further advised that all rules and practice in effect for the railroad governing the treatment of disputes between employes and the employer have all been complied with prior to the filing of this notice of intention to file submission. Both Clement White and Phillip Corathers were employed as maintenance-of-way men, within the jurisdiction of the Third Division.

It is the intention of the claimants that an oral hearing be requested.

OPINION OF BOARD: Claimants White and Corathers were employed as Carpenter and Carpenter-Helper, respectively, in Carrier's B&B gang. On July 22, 1965, they were charged with being absent from duty without permission and advised that a formal hearing would be held at 10:00 A. M., July 29, 1965, in the Lang Yard Office Conference Room. At the request of the Brotherhood the hearing was postponed from 10:00 A. M. until 2:00 P. M., July 29. Hearing was held, and based upon testimony taken thereat Carrier found Claimants guilty as charged. Under date of July 30, 1965 they were informed of their dismissal from the service.

Before this Board, the Claimants contend that they did not receive a fair and impartial hearing based on certain procedural errors that allegedly occurred, and that as to the merits the transcript of the hearing does not support Carrier's finding of guilty.

The record clearly indicates that none of the procedural matters that have been raised by Claimants were discussed with Carrier on the property. Accordingly, such matters are not properly before the Board, and may not be considered.

We have carefully reviewed the transcript of the hearing and find sufficient evidence to support the Carrier's finding of guilt. We further find that

the discipline imposed is neither arbitrary nor capricious under the circumstances in which Claimants absented themselves from duty.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of April 1969.