

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19666
Docket Number TD-19731

Alfred H. Brent, Referee

(American Train Dispatchers Association
PARTIES TO DISPUTE: (
(Soo Line Railroad Company

STATEMENT OF CLAM: Claim of the American Train Dispatchers Association that:

(a) The **Soo** Line Railroad Company, hereinafter referred to as "the Carrier" violated the Agreement in effect between the parties, Rule 23 thereof in particular, by its action in assessing suspension (not served) **from** the **service of** the Carrier for a period of fifteen (15) days upon Train Dispatcher A. F. Burke, Jr. following formal hearing on February 2, 1971 and assessment of such discipline was placed on his personal record file. The record of said formal hearing fails to support Carrier's charges of violation of instructions, thus imposition and/or record of discipline was arbitrary and unwarranted. Further, Carrier failed to comply with appeal procedures specified in the Agreement thereby denying claimant and/or his representative the right to conference or decision as provided in the Agreement.

(b) Carrier shall now be required to clear Claimant Burke's employment record of the charges which provided the basis of said action.

OPINION OF BOARD: The Carrier contends that the Claimant, a train dispatcher, failed to follow the proper procedure for reporting a suspicious indication of a possible hot journal box on Train #87 and thus contributed to the derailment of two cars at the east switch of the **Glennwood** Yards on January 24, 1971. After a hearing on the property, the Carrier suspended the Claimant for fifteen days (not served). The Organization contends that the fifteen day suspension imposed by the Carrier was not supported by the record on the property and that the Carrier failed to comply with the appeal procedures set forth in the agreement.

The Carrier admits (record page 107) that Rule 23 (c) was violated. The Organization had requested a conference with the general superintendent within the fifteen days specified in the rule, but no conference arrangement was made by the Carrier.

This Board has held in innumerable Awards that a Carrier cannot be excused for failure to schedule an appeal conference within the time limits set for appeals in the rules. See Awards #15006, 16030, and 16094.

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

That the parties waived oral hearing;

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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 the Agreement was violated.

A W A P D

The Claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 23rd

day of March 1973.