

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22799  
Docket Number SG-23005

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Transportation Company that:

(a) On June 29 and July 3, 1978, the carrier violated the current Signalmen's Agreement, particularly Rule 60 (revised) during investigation of **Asst. Signal Mtnr.**, Mr. T. P. Boyle, and subsequent discipline assessed to him.

(b) Carrier now be required to reinstate Mr. Boyle to his former Asst. Sig. Mtnrs. position with all seniority and other rights unimpaired, compensate him for all time lost, and clear his personal record of the entire charge."

[Carrier file: D-9-17-31]

OPINION OF BOARD: This case is before the Board primarily on procedural grounds. On June 26, 1978, claimant, an assistant signal maintainer, was directed to report for investigation on June 29, 1978, on charge of:

'Your failure to protect your assignment on June 19, 20, 21, 22, 23, and 26 and not notifying this office of your intent to absent yourself from duty.'

The Organization's first contention is that the investigation was not held within the seven-day provision of Rule 60, which reads in part:

"... The investigation will be held *within seven days* from date of alleged offense or after **information** of the alleged offense has reached the supervisor, except **that** where an **employee** is held out of service pending investigation same will be held within three working days from date taken out of service. The employee will be advised of supervisor's decision, in writing, within seven days after completion of investigation, with copy to local chairman. "

Claimant had been told by supervisory personnel on June 26, 1978, that he was being held out of service pending investigation.

As claimant's absence was of a continuing nature and as the investigation was scheduled within seven days of the last three dates mentioned in the letter of charge, and within three days from date claimant was advised that he was being withheld from service, the Board concludes that the time limits for conducting the investigation were complied with. Claimant did not appear for the investigation on June 29, 1978. The Carrier contends that the notice was sent to claimant's **home** address, and copies were sent to the Local Chairman and the General Chairman of the Organization. On July 3, 1978, claimant was dismissed from service.

The Organization also alleges a **violation** of Article V of the August 21, 1954, National Agreement, claiming that the claim filed with the Assistant Vice Resident and Division Engineer was not denied within sixty days. The General Chairman's letter was dated August 18, 1978, and the record shows that he received reply in his office on October 19, 1978. The Carrier contends that the General Chairman's letter of August 18, 1978, was actually received on August 21, 1978, which seems reasonable, with the week-end intervening. Many awards of this Board have held that a claim is filed or appealed when received by the officer authorized to receive same. As the General Chairman received reply within sixty days of August 21, 1978, he was clearly notified of disallowance of the claim within sixty days, as required by Article V of the August **21**, 1954 National Agreement.

Based on the entire record, there is no proper basis for this Board to interfere with the discipline imposed by the Carrier.

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 Employees involved in this dispute are respectively Carrier and Employees 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

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That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD **ADJUSTMENT** BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1980.

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