

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25888
Docket Number CL-25729

Lamont E. Stallworth, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employes
(
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9861) that:

1. Carrier violated the terms of the current Agreement, particularly Rule 21, when under date of May 21, 1981, it issued discipline of 10 days' suspension as a result of a formal investigation which was held in an untimely manner on May 15, 1981, and

2. Carrier shall now be required to compensate the Claimant J. D. Sandmeier for all time lost as a result of such discipline and that his record be cleared of the alleged charges."

OPINION OF BOARD: The Organization has pursued this claim on the basis of a time limits violation and has not dealt with the substance of Carrier's charges, except as regards to supervision. The transcript of the record is clear. Claimant did falsify his expense reports to the extent of approximately \$48, and this was in an expense report covering the period March 24 through April 23, 1981, while Claimant was assigned to the position of Chief Yard Clerk. An investigation was set to start May 8, 1981, and was rescheduled for May 15, 1981.

Paragraph (a) of Rule 21 of the Clerk's Agreement requires that all investigations be held:

"... within seven calendar days of the alleged offense or within seven calendar days of the date information concerning the alleged offense has reached his supervising officer."

The term "supervising officer" is critical in this case. If the "supervising officer" of Claimant was the Agent, Mr. Goin, then notice was not timely. On the other hand, if the "supervising officer" of Claimant was Assistant Division Manager Michaels, then the notice was timely since it took some time for the information to reach Mr. Michaels.

Mr. Goin was serving as Agent with some level of supervisory responsibility over Claimant Sandmeier. Mr. Sandmeier was apparently required to submit his expenses to Agent Goin. He did that "... at the end of April ...". Agent Goin further had apparent authority to instruct employes on the appropriate number of miles to show on an expense report. Agent Goin also gave supervisory direction to Claimant in instructing him to cut his mileage expense claims.

Thus, Agent Goin was aware of the problem "at the end of April", and Agent Goin did have supervisory responsibility over Mr. Sandmeier. Carrier seeks to dismiss this by interpreting the Rules language "supervising officer" to mean "company officer". The Board is not persuaded that the Agreement writers were unable to say that if it was, indeed, what they intended.

Carrier also argues that the Agency could not be the Supervisor because both the Agent and the Chief Yard Clerk positions are covered by the Clerk's Agreement. While that may be unusual in most industries, it is certainly not unusual in the railroad industry. If the governing word is "officer", then it should appear in the Rule. It does not. If positions under the same agreement are not allowed to supervise each other, evidence to that effect should be presented. It was not.

The Board must conclude that Agent Goin was the "supervising officer" as contemplated in Rule 21. The Board further points out that it is incumbent on the Carrier to hold its supervisory employees to strict standards of compliance with the time limits of the labor agreements under which they operate. This is as true of its Agents as it is of its Assistant Division Managers.

For these reasons, the Board is convinced that Rule 21 was violated, and that in the long standing practices of this Board, such violation of time limits causes us to sustain the claim.

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

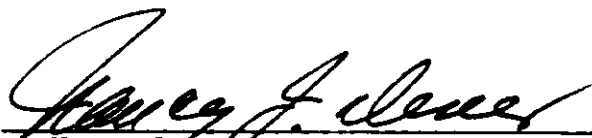
That the Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1986.