

Referee Robert M. O'Brien

PARTIES TO DISPUTE: The American Railway Supervisors Association
Chicago and North Western Transportation Company

STATEMENT OF CLAIM: It is the claim and request of the Petitioning Organization that:

1. Respondent Carrier violated Rule 20 of the Agreement effective December 1, 1959 when on September 2, 1973, Carrier suspended Mr. G. J. Dahl, conducted Investigation on September 13, 1973 and on September 18, 1973, assessed a discipline of thirty (30) days actual suspension against Mr. Dahl.

2. Carrier shall be required to reinstate Mr. G. J. Dahl to his position, with all his Seniority, Vacation and other rights unimpaired, clear his record and pay him the salary denied to him by the violative action of the Carrier.

OPINION OF BOARD: Claimant was assessed a 30 day suspension due to his failure to report for duty on September 2, 1973. He requests this Board to overturn his suspension citing extenuating circumstances for his failure to report for duty, which he contends, he was not given opportunity to explain prior to being suspended.

Before reaching the merits of this controversy, the Board must pass on an argument raised by the Organization that Carrier failed to hold a conference relative to this dispute after being requested to do so by the Organization's General Chairman. It is without question that the Railway Labor Act (Section 2, Second and Sixth) imposes upon the parties an obligation to hold a conference in connection with each dispute that they are unable to settle by other means. Section 2, Sixth provides that it shall be the duty of the Carrier's designated representative to specify a time and place for a conference within ten days after receipt of a request for such a conference.

In the case at hand when the claim was appealed to Mr. Fremon, Carrier's Highest Official, on October 23, 1973, the Organization's General Chairman requested that a conference be held to further discuss this matter. Carrier's representative failed to respond to this request and never arranged for a conference to be held as is required by the Railway Labor Act. Since it was incumbent upon the Carrier to specify a time and place where the requested conference was to be held their refusal to do so constituted a violation of the Railway Labor Act, Section 2, Second and Sixth. We will consequently

sustain the claim before us based on Carrier's violation of the Railway Labor Act without reaching the merits thereof.

FINDINGS:

The Fourth Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier and the employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

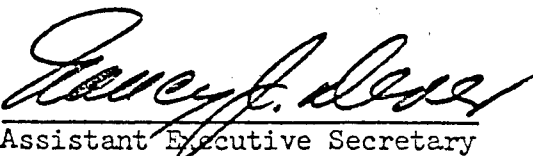
The parties to said dispute waived right of appearance at hearing, but were granted privilege of appearing before the Division with Referee sitting as a member thereof, to present oral argument.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST: Executive Secretary
National Railroad Adjustment Board

By: 
Assistant Executive Secretary

Dated at Chicago, Illinois, this 5th Day of February 1975.