Award 15656
Docket 28615

NATIONAL RAILROAD ADJUSTMENT BOARD

FIRST DIVISION

39 South La Salle Street, Chicago 3, Illinois

With Referee John A. Weeks

PARTIES TO DISPUTE:

BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN

SOUTHERN PACIFIC LINES, ATLANTIC SYSTEM

STATEMENT OF CLAIM: "Request for reinstatement of Engineer Ralph B. Elliot with seniority unimpaired and with pay for time lost from July 17, 1951 until reinstated."

FINDINGS: The First Division of the National Railroad Adjustment Board, upon the whole record and all the evidence, finds that the parties herein are carrier and employe within the meaning of the Railway Labor Act, as amended, and that this Division has jurisdiction.

Hearing was waived.

Without passing upon the issue of excessive speed in a restricted zone the record conclusively shows claimant's hearing was not conducted in accordance with the rules in the following respects:

1. He was not present when testimony was taken which was used in the consideration of his case and was thereby deprived of the right to confront his accusers and cross-examine them when they testified. Giving him a transcript of their testimony later and allowing him to question them does not meet the rules requirements.

2. Witnesses he deemed essential and requested were not called. Award 8260.

3. Superintendent conducting investigation also testified. Awards 8259, 8376, and 10616.

4. Refused right to a continuance or reconvening of hearing.

Claimant was deprived of fundamental rights which cannot be ignored.

AWARD: Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of FIRST DIVISION

ATTEST: (Signed) J. M. MacLeod
Executive Secretary

Dated at Chicago, Illinois, this 8th day of August, 1952.