

ARTICLE 50 - DISCIPLINE AND INVESTIGATIONS

Section A -

Art. 32
Sec. B Bkm
M/A eff.
7/1/55 Bkm
Art. 33 Bkm
M/A eff.
3/10/73 Bkm
Art. 39
Sec. B Cdr
Art. 40 Cdr
M/A eff.
1/15/66 Cdr
L/A dated
7/19/68 Cdr
M/A eff.
1/3/69 Cdr
Revised

Awds. Nos. 340, 341,
342, 343 & 344
PLB No. 717
M/A signed
May 16, 1978

(1) Employees shall not be disciplined without just and sufficient cause.

(2) (a) Except as provided below, before inflicting punishment in form of dismissal, deferred suspension, actual suspension, reprimand or demerit marks, the proper Carrier Officer will hold a fair and impartial investigation within 15 days after the date the Superintendent or proper Carrier Officer has knowledge of the occurrence upon which the charge is based. In case an employee is held off of his assignment account being charged with violation of Rule G, insubordination, theft, fighting or vicious conduct, he shall be given an investigation within 5 days after the date he is held off.

(b) An employe, together with his Local Chairman, may sign a waiver of investigation and all such waivers shall clearly state the form and extent of discipline to be issued and accepted.

(c) If an employe voluntarily signs a letter of reprimand, "without further protest or appeal," he has thereby waived any right to an investigation and appeal on the matter and such letter will properly become a part of his personal record.

(3) When deferred suspension (a maximum of 60 days is permissible) is assessed, the employe is not required to serve it immediately, but it is made a part of his record, and if he is disciplined for another offense committed within 12 months of the first offense, he must automatically serve the deferred suspension. If no further offense is committed within the 12 months following the first offense, the employe is relieved of all possibility of having to serve the deferred suspension.

(Article 50, Section A Cont'd)

Ditto

Example:

If the employe should commit another offense within the succeeding 12-month period, and as a result of the second offense receives deferred suspension of 15 days, he is then required to serve the previous suspension and a new probationary period of 12 months begins in regard to the 15-day suspension. Later offenses are treated in the same manner. However, if the discipline assessed for a second or third offense is a reprimand or demerits, a notation of that fact is placed on the employe's record, but such an entry does not require him to serve any previous disciplinary assessment which may have been placed against him within the previous 12-month period.

(4) Investigations will be held whenever possible at the home terminal of the employes involved. They will also be held at such times as to not cause employes to lose rest or time whenever possible to do so. In case time is lost, employes will be paid unless held responsible for occurrence which instigated the investigation.

(5) Any accused employe directed to attend an investigation will be notified in writing, by registered or certified mail, return receipt requested, or by personal delivery evidenced by receipt. Such notification will contain a clear statement of the matters which are to be investigated and the nature of the charge or charges which are brought against those accused. It shall also indicate that the accused has the right to have witnesses appear and testify in his behalf. The notice to appear for the investigation shall bear the names of the witnesses that the Carrier intends to call, time, date, and place of investigation, will give the accused a reasonable time to prepare for his defense, to select an employe of his choice as a representative, prepare for the investigation, and to secure the presence of any defense witnesses he may desire.

(Article 50, Section A Cont'd)

Ditto

(6) (a) The Carrier will notify and arrange for the presence of each witness who has material knowledge of the incident (does not include an accumulation of witnesses with the same information). If additional witnesses are desired by the employe or his representative, a written request will be made to the Carrier Officer calling the investigation. The Carrier is only required to pay a witness who has material knowledge. Any other witness requested by the employe or his representative will simply be notified by the Carrier that he is being requested to attend the investigation at the request of the Organization. In the event a dispute arises between the proper Carrier Officer and the Organization as to whether or not a witness has material knowledge of the incident, the testimony of that witness at the investigation will be the determining factor of whether or not the Carrier is required to pay him for his time loss.

(b) If it develops in the investigation that additional witnesses should be called by the Carrier, the accused or his representative, a request for a recess or postponement will be granted.

(7) All employes charged must be present during the entire investigation unless mutually excused by the investigating officer and all employe's representatives present.

(8) Requests of interested parties or proper Carrier Officers for postponement of an investigation will be granted for reasonable purposes.

(9) In cases where employes fail to appear for an investigation and fail to present reasonable evidence of their inability to do so after having been properly notified in accordance with Paragraph(5) of this Section A, and they make no effort to secure a postponement, the employe will be considered guilty of all charges involved.

(10) A complete stenographic transcript of all testimony presented at the investigation will be made. The word "complete" as used herein is understood to imply that all "on-the-record" testimony, statements, exhibits, objections, rulings by the

(Article 50, Section A Cont'd)

Ditto

interrogating officer, etc., will be included in the transcript. The Local Chairman and/or General Chairman will be furnished a copy of the written transcript of investigation, including photographs, written documents, etc., upon request. Complaints regarding alleged omissions of language, errors, etc., will be made in writing.

(11) The evidence presented at the investigation and contained in the transcript will be the only basis used in determining the employe's guilt or innocence. However, the employe's personal record may be used in determining the amount of discipline to be assessed if the employe is considered to have been found guilty.

(12) The accused employe and/or his representative will be permitted to interrogate all witnesses, or others giving testimony. At the request of the accused employe or his representative, investigation will be temporarily recessed to permit consultation.

(13) If an employe is found guilty, he will be notified in writing within 15 days after the completion of the investigation of the decision stating the amount of discipline assessed and the reason.

(14) In case of dismissal, suspension (actual or deferred) or demerit marks, if the employe thinks that the discipline assessed is unjust he or his representative shall have the right to appeal within 30 days, in writing to the proper Carrier Officer. The proper Carrier Officer shall then render his decision within 60 days after the receipt of this appeal. If the employe feels that he has been unjustly dealt with he shall have the right to appeal through his Local and General Chairmen. The time limits for further appeals and decisions shall be as those contained in Article 51.

(15) In case discipline is assessed and subsequently found to be unjust, the employe will be reinstated with all seniority and vacation rights unimpaired, the discipline removed from his personal record and paid for all time lost.

(Article 50, Cont'd)

Ditto

Section B - Attending Investigations Or Making
Statements On Their Own Time

(1) Employees attending investigations or making statements or reports on their own time (i. e., without loss of time from their assignment) at the request of an Officer of the Carrier will be paid at overtime rate for actual time held with a minimum of 2 hours at overtime rate. Time commences at the time ordered to report. This not to apply to employees found responsible for the occurrence which instigated the investigation or statement.

(2) When employes are required to attend an investigation or to make statements, including written reports (other than normal daily trip reports such as the time slip, registry of hours, etc.), at the time they report for duty, an exception will be made insofar as initial terminal switching (when performed) and delay rules are concerned. Such allowances shall be computed from the time the employe reports and continues until the time specified in those rules (i. e., until the time "train is coupled together" or "train leaves the terminal" respectively); provided, however, that none of the time spent in the performance of work for which an arbitrary or special allowance is paid will be included in such enlarged initial terminal switching or delay allowances. Such allowance will in all other respects be paid and computed in the regular manner. This provision is not intended to enlarge the application of the initial terminal delay and switching rules to classes of service not covered by those rules.

(3) When employes are held on duty on a continuous time basis at the conclusion of their trip to attend an investigation or to make statements, including written reports (other than normal daily trip reports such as the time slip, registry of hours, etc.), their time for pay purposes shall continue until they are released upon completing all duties required of them at that time. Additionally, in such cases, an

(Article 50, Section B Cont'd)

Ditto

exception will be made in that the allowance for final terminal switching (when performed) or final terminal delay shall be computed up to the time the employe is released from duty; provided, however, that none of the time spent in the performance of work for which an arbitrary or special allowance is paid will be included in such enlarged final terminal switching or delay allowances. Such allowances will in all other respects be paid and computed in the regular manner. This provision is not intended to enlarge the application of the final terminal delay and switching rules to classes of service not covered by those rules.

Section C - Attending Joint Investigations

Where a joint investigation is held to determine the responsibility between railroads that requires employes to lose time in addition to ordinary loss of time for customary investigations, employes will be paid in the same manner provided for in Article 49 (Attending Court And Making Statements And Reports). This payment provision does not apply to employes found responsible for the occurrence which instigated the investigation.