

Award No. 3583

Docket No. 3398

2-SP-CM-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Lloyd H. Bailer when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 114, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)**

SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

DISPUTE: CLAIM OF EMPLOYEES: (a) That under the current Agreement, Coach Cleaner Ardellia Klines was unjustly dismissed from employment service on November 25, 1958.

(b) That accordingly, the Carrier be ordered to reinstate Coach Cleaner Klines with all service rights and compensation for all time lost since the above-mentioned date.

EMPLOYEES' STATEMENT OF FACTS: The carrier employes Coach Cleaner Ardellia Klines (hereinafter referred to as the claimant), since November 13, 1944, at Los Angeles, California, in the mechanical department. The claimant was regularly assigned to work the hours of 4:00 P. M., to 12:30 A. M., with rest days Thursdays and Fridays.

An undated letter was directed to the claimant by carrier's representative, Mr. J. C. Orr, general passenger car foreman, Mission Road Coach Yard, Los Angeles, California, advising her that she had been cited for investigation commencing at 5:00 P. M., Wednesday, November 5, 1958.

On November 25, 1958, a letter was addressed to claimant by Master Mechanic D. Brown carrier's duly authorized representative, advising: "For reasons as stated you are hereby dismissed from the service of the Southern Pacific Company."

This dispute has been handled with the carrier's representatives up to and including the highest designated officer to whom such matters are subject to appeal, with the result that they would not agree to the reinstatement of claimant, by the following: " * * * you are informed that the request for reinstatement of Miss Klines with compensation for time lost as the result of her dismissal was without merit whatever and was declined. That decision is here confirmed and may be accepted as my final ruling on this matter," and which is substantiated by letter dated March 30, 1959.

The agreement effective April 16, 1942, as subsequently amended, is controlling.

require that any and all earnings by the claimant during the period for which compensation is claimed be deducted.

CONCLUSION: Having conclusively established that the claim in this docket is without merit, carrier respectfully submits that it be denied.

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

The carrier or carriers and the employe or 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.

Parties to said dispute waived right of appearance at hearing thereon.

There is evidence in the record to support Carrier's finding that on October 23, 1958 claimant conducted herself in a manner that was violative of certain shop rules properly established by the Carrier. She thereby became subject to disciplinary action. Nevertheless we are of the opinion that dismissal was an excessive penalty under all the circumstances. The time already lost is sufficient punishment for claimant's improper conduct.

AWARD

Claimant shall be reinstated with all service rights unimpaired but without compensation for time lost.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 4th day of November 1960.