

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

LeRoy A. Rader, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

FORT WORTH AND DENVER CITY RAILWAY COMPANY

THE WICHITA VALLEY RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that: Mrs. Ethel E. Reeder, stenographer-clerk, Maintenance of Equipment Department, who was dismissed from service August 7, 1946 be reinstated with seniority unimpaired, with rights and privileges under Vacation Agreement and with pay for time lost from August 7, 1946 to March 5, 1947, both dates inclusive.

OPINION OF BOARD: The claim, the rules of the Agreement relied on, transcript of evidence, citation and digest of awards, and the contention of the parties are set out above. Review of the same is not deemed necessary in this Opinion.

The Organization contends that Mrs. Ethel E. Reeder, who was dismissed from service August 7, 1946, was charged with one breach of duty and was dismissed for another breach of duty. Therefore, the hearing given and dismissal made is a nullity as she was not given a hearing on the matter which was used as grounds for dismissal.

The hearing was held to determine discrepancies in the record of time paid to Claimant for time off on account of sickness and vacation in comparison with other records of the time in question. It developed in the hearing that there were certain records which had been altered and certain records which had been removed from the custody of the Carrier. The Claimant denies that the records in question were actually removed from the custody of the Carrier but does admit that she secreted the records in the office. She further admits that she did rewrite certain records from memory and place the rewritten portion in the timekeeping records.

It is the opinion of the Board that the charge investigated in the hearing was sufficiently broad to be the basis of the finding of dismissal. To rule otherwise would, in its nature, be a restricted and technical finding.

There is a conflict in the evidence as to who had made certain timekeeping records and as to whether or not there had been a proper delegation of authority in the preparing and entry of timekeeping records; however, the record is clear as to who had the responsibility of keeping the timekeeping records and in whose custody they were supposed to be.

As the evidence which goes to make up the record is in conflict in several particulars, it is necessary to go to the transcript of evidence to determine just what the various parties contend did happen. In so doing we find the Claimant does admit that she rewrote certain pages of the timekeeping records, from memory; did replace these rewritten pages in the record book and took the original pages and placed them in the filing case where they were not usually kept (behind the files), and later turned the same over to her representative at the hearing. As to whether or not certain timekeeping records were changed as the same apply to Claimant's time off is not exactly clear from the transcript of evidence. However, it is clear that for some purpose Claimant did recopy certain timekeeping records; her testimony being to the effect that the same had previously been altered and were ink-stained, or had been written over, shows improper conduct on her part. If, in her opinion, the timekeeping records were not correct, she had a proper remedy, that is, she should have taken the matter up with her supervisor, the official whose duty it was to keep the records correctly, and called the discrepancies to his attention. In this manner, the timekeeping records could have been properly changed if found to be wrong. Her method of proceeding in this matter, while it may not have been for a dishonest purpose, certainly cannot be condoned.

Sufficient grounds for dismissal existed and finding has been made above on the jurisdictional question, re: the charge originally investigated in the hearing was broad enough to sustain dismissal under the fact situation as developed in the taking of evidence at the hearing.

Considerable argument has been presented with reference to vacation, and other rights, as affected reinstatement (the Claimant drawing compensation at this time by reason of disability and the argument being made relative to her status with reference to retirement and other related matters). In view of the finding here made, it is deemed not necessary to go into this matter.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 9th day of November, 1948.