

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Thomas C. Begley, Referee

PARTIES TO DISPUTE:

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

THE NEW YORK CENTRAL RAILROAD

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood and Steamship Clerks, Freight Handlers, Express and Station Employees on the New York Central Railroad Company, Buffalo and East, that Mrs. Hazel Nelson, Telephone Operator at Buffalo, N. Y., be reinstated with seniority rights unimpaired and be reimbursed for wage loss suffered retroactive to July 28, 1947 on which date she was dismissed from employment for allegedly having conducted herself while on duty July 26, 1947 in such manner as to have impaired the service.

OPINION OF THE BOARD: The claimant was employed November 1, 1942, as an extra telephone operator at Buffalo, New York. On July 28, 1947, the claimant was removed from service. On July 29, 1947, the claimant was directed to attend a hearing on August 1, 1947, on the charge of "using unbecoming language and creating a disturbance in the PBX operating room and conducting herself in such a manner as to prevent the continuous operation of the switchboard." The improper conduct happened on July 26, 1947. By letter dated August 4, 1947, the claimant was notified that she had been dismissed from service.

The Employees claim that the evidence shows that another employe began the quarrel and that she was not charged with any wrongdoing or reprimanded. They also claim that the Carrier did not establish that the claimant was guilty of the offense charged and that the Carrier's action was arbitrary, capricious and discriminatory.

From a careful reading of the submissions of both parties to this claim and the transcript of the testimony taken at the hearing of August 1, 1947, this Board finds that the contentions of the Employees are not well taken and are without merit.

It is not our function to weigh the evidence. The record discloses that the hearing was held pursuant to proper notice and conducted in an impartial manner. Under such circumstances, it is not the function of this Board to interfere with the Carrier's conclusion that the Claimant used abusive language and disrupted the service on July 26, 1947, while on duty. We do not find that the dismissal of the claimant was an abuse of discretion or arbitrarily imposed by the Carrier.

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

That both parties to this dispute waived oral hearing thereon;

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

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 4th day of August, 1950.