

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

A. Langley Coffey, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

ATLANTIC COAST LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atlantic Coast Line Railroad, that:

1. Carrier violated the terms of the Agreement, between the parties hereto, when on the 31st day of December, 1951, without just cause, it discharged Mrs. J. E. O'Steen.

2. Carrier shall clear the service record of Mrs. J. E. O'Steen, of the charge upon which the dismissal was based; restore her to former assignment, and pay her for all time lost.

OPINION OF BOARD: Claimant was dismissed from service and appeals. Record reviewed.

On basis of record and oral argument by party representatives who appeared personally before the Board with the Referee sitting as a member, it has been found that discipline imposed was without warrant and authority of the governing Agreement, and, therefore, same is held to be arbitrary and capricious. Claim (1) will be sustained.

Claim for back pay will not be honored from and after January 27, 1953, date on which settlement appears to have been made on the property between the General Chairman and Carrier representatives, but later repudiated by Claimant. This Board does not recognize agreements and understandings made and reached with individual employes on matters covered by Collective Agreements, and, when, as in this docket, a discipline case is progressed on the property by the Organization holding the contract, no person, including disciplined employe, will be recognized by this Board as having a contrary voice in handling of the case.

When, pursuant to offer and acceptance, as evidenced by letter (Employes' exhibit No. 33) in the docket, Claimant was tendered reinstatement with seniority unimpaired, and balance of claim to be settled in further conference or by submission to this Board, claim for time lost will not be projected beyond that date.

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 Employee involved in this dispute are respectively carrier and employee 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 Agreement was violated.

AWARD

Claim (1) sustained. Claim (2) sustained except pay for time lost to be computed to and including January 27, 1953.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 12th day of April, 1955.