

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

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

ATLANTIC COAST LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

- (1) The Agreement governing hours of service and working conditions between the parties was violated by the Carrier at Wilmington, North Carolina, in the treatment accorded Clerk J. E. Hearn, Jr., in dismissing him from service, and
- (2) That Clerk J. E. Hearn, Jr., shall be restored to service with all rights unimpaired and compensated for all time lost from July 28, 1953, at the rate of the position he occupied at the time of his dismissal or any position which might have become vacant after that date to which his seniority would have entitled him had he not been removed from service, and that such compensation shall continue until Claimant Hearn is restored to service in accordance with the provisions of Rule 36 of the Controlling Agreement.

OPINION OF BOARD: Based on the facts and circumstances in this particular case, the action of the Carrier should not be disturbed.

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 action of the Carrier shall not be disturbed.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 26th day of May, 1955.