

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYES UNION
THE DENVER AND RIO GRANDE WESTERN RAILROAD CO.**

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Denver & Rio Grande Western Railroad, that:

1. Carrier improperly dismissed O. P. Garrett from service on December 2, 1966.
2. Carrier shall now restore O. P. Garrett to service with all rights unimpaired and compensate Mr. Garrett for all time lost.

OPINION OF BOARD: This is a disciplinary case, in which Claimant, failing to properly maintain and keep adequate station records, was, subsequent to a hearing, dismissed from the services of the Carrier.

The evidence of record indicates conclusively the guilt of the Claimant insofar as the charge is concerned. He readily admitted his failure to maintain the appropriate records, which from our understanding of the factual situation in this, would have consumed a very nominal amount of time on the part of the Claimant. The only possible mitigating circumstances which could conceivably have contributed to Claimant's inadequacy, is the fact that he was not in the best of physical condition. Most assuredly he should have reported this to his Supervisors, but chose not to do so.

Considering all the facts of record, we find that the Claimant was guilty as charged, and that disciplinary action was in order. However, we think that permanent dismissal was an excessive penalty. The time lost by Claimant constitutes sufficient discipline. We will hold that the Claimant shall be reinstated with seniority unimpaired but without reimbursement for wages lost.

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

That the parties waived oral hearing;

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 discipline imposed was excessive.

AWARD

Claim sustained to extent shown in Opinion.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 18th day of April 1968.