



Award Number 17692

Docket Number CL-18377

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

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

THE UNION TERMINAL COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6634) that:

- (a) The Carrier violated the current Clerks' Agreement when on December 18, 1968, it dismissed Mail Handler Charles Reynolds from the service without affording him a fair and impartial hearing as contemplated by the rules.
- (b) The Carrier further violated the current Clerks' Agreement when it withheld Mail Handler Reynolds from the service after conclusion of the investigation on December 12, 1968, until he was discharged by letter dated December 18, 1968.
- (c) That Mail Handler Charles Reynolds be paid a day's pay for each work day of the assignment he held on December 12, 1968, the date he was first withheld from service and each and all subsequent days he could have worked until the date he is restored to service.

OPINION OF BOARD: Claimant in this case was given written notice by the Carrier to appear for an investigation; said notice reading as follows:

"Report to Union Terminal Company Board Room, 9:00 A.M., December 12, 1968, for formal investigation in connection with your alleged failure to devote your time on duty exclusive to your duties between 2:15 P.M. and 4:30 P.M. December 10, 1968, indifference to duty and use of quarrelsome, loud and vulgar language in dealing with Mail Foreman Dansby.

"You should arrange for duly accredited representation and any witness desired."

The investigation was subsequently held, during which Claimant was ably represented, was afforded the opportunity to present witnesses on his own behalf if so desired, was permitted to cross-examine witnesses hostile to his case, and in general was given all the latitude necessary to ensure a fair and impartial trial. The evidence adduced was sufficiently substantial to justify Carrier's finding of guilty and in the absence of extreme mitigating circumstances, we can find nothing in this record which would warrant this

Board to overturn the decision of Dismissal from the Service. Carrier's action was by no means arbitrary or capricious. We will deny the claim.

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 Employes involved in this dispute are respectively Carrier and Employes 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 not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1970.