

Award No. 18284
Docket No. CL-18600

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

PENN CENTRAL TRANSPORTATION COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6711) that:

1. Carrier violated the terms of the current Clerks' Agreement at Niagara Falls, N. Y., when it arbitrarily, capriciously and discriminately dismissed from its service Mr. N. A. Lovell on December 26, 1968 without a precise charge or charges against him and without proper justification.
2. Carrier shall now reimburse Mr. Lovell from December 14, 1968 to June, 1969 and clear his record of all charges arising from the investigation held on December 20, 1968, at the established rate of his position as janitor, and other benefits as reflected by the Carrier's payroll and other records.

OPINION OF BOARD: At approximately 2:00 P. M., December 13, 1968, Claimant was removed from service by Carrier's Trainmaster because he was allegedly in an unfit condition to properly perform his regularly assigned janitor duties. On December 16, 1968, Claimant was notified to attend an investigation to develop the facts in connection with being in an unfit condition to properly perform his duties. The investigation was held on December 20, 1968, a transcript of which has been made a part of the record. On December 26, 1968, Claimant was dismissed from Carrier's service. The record shows that he was restored to service on June 9, 1969.

The Carrier contends at the outset that the claim as submitted to the Board is not the same claim as presented and handled on the property and requests that it be dismissed. The substance of the claim submitted to the Board is the same as handled on the property and the Carrier's request in this respect is denied.

The Board has carefully reviewed the entire record in the case and finds that none of Claimant's substantive rights under the Agreement were violated. There was substantial evidence presented in the investigation to

support the charge, and we do not find that the discipline administered was arbitrary, capricious or in bad faith. The claim will, therefore, be denied.

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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November 1970.