

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20015
Docket Number CL-19976

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (CL-7165)
that:

(a) Carrier violated the Clerks' Agreement at Sheffield, Alabama, when on March 27, 1969, Agent Terminal Control Mr. H. H. Surrent dismissed Mr. J. G. Everett, Chief Yard Clerk, from the service of the Carrier for alleged failure to properly handle with Control Center, Atlanta, Georgia, to obtain billing instructions.

(b) Carrier failed to prove the charges against Mr. Everett in the investigation held at Sheffield, Alabama, in the office of the Agent Terminal Control at 3:00 p.m. on April 16, 1969.

(c) Mr. Everett shall be compensated for all time lost, including one holiday, beginning March 27 through April 30, 1969.

OPINION OF BOARD: Claimant was regularly assigned as Chief Yard Clerk (first shift) in Carrier's Yard Offices at Sheffield, Alabama. He had occupied that position for approximately fifteen years and had about 24 years of service with the Carrier. On March 27, 1969 Claimant was dismissed from service for "...his failure to properly handle with the Control Center in Atlanta, Georgia, to obtain billing instructions for tank car GATX 63651..." which had arrived loaded in the Sheffield Yard on February 19 and remained there until March 27, 1969 when billing was received. This delay resulted in a serious complaint from the shipper. After a hearing, the discipline was affirmed by Carrier. On May 1, 1969, on a leniency basis, Claimant was restored to service, having lost 24 days (and one holiday) of service.

The record discloses that the car in question had been travelling on a waybill with an incorrect number. Furthermore, the car had become separated from that waybill at Birmingham, Alabama, and moved without billing to Sheffield. The transcript of the investigation indicates that Claimant as well as a number of other clerks on all three shifts had made diligent efforts to secure disposition of the car. It is difficult to determine why Claimant was singled out for blame in this matter, particularly since the car in question arrived on the third shift, prior to his coming on duty.

It is clear that employee error, compounded, resulted in the inordinate delay of the loaded tank car. However, it is equally clear from the record that Claimant was not responsible for the mishandling of the car. In short, the record does not support the conclusion reached by Carrier. A complete examination of the transcript of the investigation reveals that the only error committed by Claimant was that he did not handle his tracing with the Control Center on the proper forms and that he didn't properly log his efforts and conversations to secure appropriate disposition of the car. Certainly these minor indiscretions did not warrant the discipline of dismissal or even loss of twenty five days pay. We shall reduce the discipline to a 10 day suspension.

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 discipline imposed was excessive.

A W A R D

Discipline reduced to a ten day suspension.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulose
Executive Secretary

Dated at Chicago, Illinois, this 31st day of October 1973.