

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20589

Docket Number CL-20718

Joseph A. Sickles, Referee

(**Brotherhood of Railway, Airline and Steamship**
{ **Clerks, Freight Handlers, Express and**
{ **Station Employees**

PARTIES TO DISPUTE: {

(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim of the System Committee of the **Brotherhood**
(**GL-7617**) that:

1. Carrier violated the applicable rules of the effective Agreement when it dismissed **Mrs. M. J. Gant** from service on August 17, 1971.

2. Carrier shall immediately restore **Mrs. M. J. Gant** to **service and** compensate her for all time lost at her **regular** rate of pay as a result of being taken out of service on **July 26, 1971**, and that payments be made in her behalf to the Travelers Insurance Company for all benefits prescribed **in** Travelers Group Policy Contract **23000**, as amended.

OPINION OF BOARD: Claimant was charged with being under the influence of alcoholic **beverages** while on duty. Subsequent to investigation she was dismissed from **service** of Carrier.

There was considerable conflicting **testimony** concerning the charge. We do note, however, a propensity on the part of the Hearing Officer to **inquire** into Claimant's prior **drinking** habits.

The Hearing Officer seemed to dwell upon Claimant's prior "alleged problems." **Moreover**, he **was** not the Officer who **imposed** the discipline. While we feel that **there** was a substantive showing of evidence to suggest that Claimant was under the influence of alcoholic beverages while on duty, we feel that the record also was quite **detri-**mental to Claimant, to the point that an objective review of Claimant's indiscretion was obscured by the Hearing Officer's insistence that prior "alleged" indiscretions should be considered.

We concur that Claimant was under the influence of alcoholic beverages on the day in question, but we feel that the Hearing Officer's activities clouded a clear determination of the quantum of discipline. Accordingly, Claimant **shall** be restored to duty, with **seniority** and other rights unimpaired, but without payment for lost compensation.

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 Agreement was violated.

A W A R D

Claim sustained to the extent stated in the Opinion of Board.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Paulse
Executive Secretary

Dated at Chicago, Illinois, this 17th day of January 1975.

CARRIER **MEMBERS'** DISSENT TO AWARD 20589, WCKET CL-20718

(Referee Sickles)

In view of the seriousness of the offense committed by the Claimant, we dissent to that portion of the award which restores Claimant to Carrier's service.

A. F. Maylor

H. A. M. B. ...

G. M. ...

P. C. ...

W. F. ...