

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20952
Docket Number CL-21068

Lloyd H. Bailer, Referee

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

PARTIES TO DISPUTE: (

(Southern Pacific Transportation Company
(Texas and Louisiana Lines

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-7858) that:

(1) The Carrier violated the current Clerks' Agreement when on June 7, 1974, it arbitrarily and capriciously dismissed Clerk M. J. Prejean from the service of the Southern Pacific Transportation Company, Texas and Louisiana Lines, without just and sufficient cause.

(2) Clerk Prejean be restored to service with full seniority, vacation and other **employee** rights restored unimpaired, paid a day's pay for June 7, 1974, and each subsequent date thereafter he could have worked on his regular assignment or through the exercise of his seniority and in addition thereto 2% of all **wage** loss sustained per month compounded until reinstated to service.

(3) The Southern Pacific Transportation Company, Texas and Louisiana Lines, be required to clear Clerk **Prejean's** service record of all charges and discipline assessed in regard to the case at hand.

OPINION OF BOARD: By Letter dated June 7, 1974 Carrier notified Claimant M. J. Prejean, a Clerk, that he **was** dismissed from service for the stated reason that on specified dates during the period from February 26, 1974 through March 29, 1974 he **was** responsible for making long distance telephone calls and accepting long distance collect telephone calls at Carrier's office at **Raceland** Junction, Louisiana for claimant's personal use and without authorization, resulting in said calls being charged to Carrier, in violation of Rules 801 and 806 of Rules and Regulations of the Transportation Department and General Rules and Regulations dated January 1, 1969. At all times relevant to this proceeding **claimant** held a second trick position at the subject location, a single Bell Telephone Company telephone was installed there, and Claimant **was** the only **employee** on duty in this office during his duty hours.

Upon receiving notice of his dismissal, claimant exercised his right under Agreement Rule 25 to request an investigation, which was duly held. Thereafter Carrier reaffirmed the dismissal action for the stated **reason** that the facts developed in this investigation fully substantiated the original dismissal decision. Testimony and telephone company records presented at the investigation by a Carrier witness were to the effect that from February 26, 1974 through March 29, 1974 a total of 54 unauthorized long distance telephone calls were made from claimant's work location or collect calls were accepted at said location during his tour of duty, and that said calls could have been handled only by claimant or by **some** other person for whom claimant was responsible. The Organization challenges various aspects of the evidence presented by Carrier but the details of this challenge need not be reviewed here for the reason that claimant acknowledges having made various unauthorized long distance telephone calls and having accepted such calls - - all of which were charged to the Carrier.

Carrier's previously cited Rule 801 states in pertinent part: "**Employees** will not be retained in the service who **are.....dishonest.....**" The relevant portion of above-cited Carrier Rule 806 reads: "**Unless** specially **authorized, employees** must not use the Company's credit...." Claimant was authorized to use the single telephone at his work location only for Carrier business. But by also using this telephone for personal unauthorized long distance telephone calls, claimant violated both of the foregoing Carrier rules. Carrier cannot reasonably be expected to tolerate the dishonesty shown by claimant. He was not prejudiced by any of the procedural questions raised by the Organization. The "just and sufficient cause" criterion specified in Agreement Rule 25 has been met in this dismissal action.

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 not violated.

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claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

G.W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 13th day of February 1976.