

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20987  
Docket Number CL-21225

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { (Brotherhood of Railway, Airline and  
Steamship Clerks, Freight Handlers,  
Express and Station **Employees**  
(Florida ~~East~~ Coast Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(CL-7939) that:

(1) Carrier acted arbitrarily, capriciously and in a harsh and discriminatory manner ~~when it dismissed~~ from its service, Clerk E. C. **Paulson**.

(2) ~~That~~ E. C. Paulson shall be reinstated **with** seniority and all rights unimpaired and reimbursed at the rate of his position, including subsequent wage increases **applicable** to his position each day that he is suspended from service.

(3) Carrier shall pay Clerk **E. C. Paulson** eight and one-half percent on the **amount** remaining unpaid from time to time as a result of wrong dismissal from service.

OPINION OF BOARD: Claimant was notified, on **November 26, 1974**, to report for investigation for habitually reporting late for his assignment. Subsequent to investigation, Claimant **was** assessed twenty **(20)** demerits. On December **4, 1974**, Claimant was charged with having accumulated "ninety (90) or **more**" demerits, and was **instructed** to report for investigation on said charge.

**On December 6, 1974**, Claimant was removed from service.

The record establishes that **Claimant** did accumulate **in** excess of ninety (90) demerits, and **was** subject to removal from service under the provisions of "Circular No. 1."

The demerit system of discipline has existed on this property for a number of years, and this Board, as well as Public **Law** Boards, has upheld disciplinary action imposed under that system. See, among others, Award **10877** and First Division Award **20526**.

**We** do not minimize the serious obligations of **employees** to assure that they report promptly for their duty assignments. Habitual tardiness may very well result in a justified termination of employment. However, our thorough **review** of the entire record in this dispute leads us to conclude that a termination **was not** warranted, and that its imposition was

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arbitrary. We **will** restore Claimant to **service, with** seniority and other **rights** unimpaired, but without **reimbursement** for compensation lost.

**FINDINGS:** The **Third Division** of the Adjustment **Board**, upon the whole record and all the evidence, **finds and holds:**

That the **parties** **valued** 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 the **Board**,  
above.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

*A.W. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1976.