

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 21003
Docket Number CL-21083

Francis X. Quinn, 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-7789) that:

1. Carrier violated the terms of the current Agreement, **particularly Rule 21**, when under date of August 30, 1973 it dismissed Mr. W. O. Harley, Control Clerk at **Ravenswood** Yard, from the service of the Carrier, and;

2. Carrier shall be required to compensate Mr. W. O. Harley **for all time lost commencing** August **24**, 1973, the date suspended from **service** account Carrier's charges, and to continue until restored to service with **all** rights unimpaired. Reimbursement to include fringe benefits.

OPINION OF BOARD: **Claimant** was dismissed for unauthorized absence on August 22, 1973, for excessive absenteeism, and failure to comply with instructions to report to his supervisory officer prior to **commencing** his assignment after being absent from duty without permission, and failure to give an acceptable reason for such absence.

The record indicates that during Claimant's five years and eleven months of service he was tardy and/or absent a total of 265 days for which he was not compensated. The record also indicates that Claimant was given four written reprimands for the same.

One can hardly argue that this **employee** was not given ample opportunity to improve his record, nor that he was not adequately **forewarned** that the lack of improvement would result in disciplinary action. The Board realizes that permanent dismissal is indeed a most **severe** penalty but having carefully reviewed the record in this case the Board finds that the discipline assessed was not an abuse of management's discretionary authority and we are, **therefore, constrained** to deny the claim.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST: 

Executive Secretary

Dated at Chicago, Illinois, this 12th day of March 1976.