

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **21392**
Docket Number CL-21681

Robert M. O'Brien, 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
(CL-8208) that:

1. Carrier violated the **terms** of the Agreement effective May 15, 1972, particularly Rule 21, **when** under date of November 15, 1974 it notified Ms. L. E. Lowe, **Key** Punch Operator at **Ravenswood**, that she was dismissed from service effective 5:00 P.M., November 15, 1974, and;

2. Carrier shall be required to compensate Ms. L. E. Lowe account such dismissal from November 15, 1974 forward until she is reinstated, for all time lost, to include all fringe benefits accruing to her under the applicable Agreements.

OPINION OF BOARD: Following a hearing held on November 11, 1974, Claimant was notified that she was dismissed from service effective November 15, 1974 due to her excessive absenteeism. At the hearing, Claimant proffered several reasons which she **claims** justified her absence from duty on October 7, 8, 10, 15, 22 through November 1, 1974. She did admit, however, that she had been **warned** about her excessive absenteeism in the past. In fact, she had been disciplined six times in the past three and one-half years for her excessive absenteeism.

We believe the record manifestly supports the conclusion that **Claimant** has been guilty of excessive absenteeism. Carrier concluded that it could not accept the reasons proffered by Claimant which, she contends, justified her most recent absences. In reaching this **conclusion**, we cannot say that Carrier erred. Their decision was based on substantive evidence and we are, therefore, loath to substitute our judgment for that of the Carrier.

We **must** find, however, that **Claimant** is entitled to one last chance with the Carrier. If upon being reinstated, Claimant's attendance record does **not** significantly **improve**, then her discharge would certainly be warranted. Claimant has been out of **service** for approximately two years. We, therefore, order her reinstated with her seniority unimpaired but without any wages lost save for a period of sixty days. Said discipline, this Board submits, is **commensurate** with her clearly established record of excessive absenteeism.

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 disposed of per the Opinion of the Board.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 28th day of January 1977.

