

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21462  
Docket Number CL-21700

David C. Randles, Referee

PARTIES TO DISPUTE: ( **Brotherhood** of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station **Employes**  
(Port Terminal Railroad Association

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,  
GL-8229, that:

1. The Association violated the current Clerks' Agreement at Houston, Texas, when on September 29, 1975, it arbitrarily and capriciously discharged Clerk M. R. Peacock from the service of the Port Terminal Railroad Association without just and sufficient cause and denied him a fair and **impartial hearing** and review.

2. The Port Terminal Railroad Association be required to restore Clerk M. R. Peacock to the service of the Association with **full** seniority, vacation and other **employe** rights restored unimpaired, pay him a day's pay for September 28, 1975, and each subsequent work day thereafter that he could have performed service for the Association.

OPINION OF BOARD: The record reveals that Claimant admitted he was guilty of failing to protect his assignment, the specific offense that induced his dismissal, and he did not **deny** his "continued previous rule violations." For one of the previous violations Claimant was dismissed by Carrier, but he was later restored to service by this **Board--** Award 17797. Claimant was accorded a fair hearing in the instant case. From **all** of this it does not appear that Carrier was arbitrary or capricious in finding Claimant guilty **or in** assessing the discipline of dismissal; therefore, the claim must be denied.

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 **Employes** involved in this dispute are respectively Carrier and **Employes** 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

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That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 18th day of March 1977.

