

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21565
Docket Number CL-21792

Robert W. Smedley, Referee

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

PARTIES TO DISPUTE:

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(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-8203, that:

1. Carrier violated the rules of the Clerks' Agreement when it dismissed W. L. Burley from the service of the Company in November 1974, and,

2. Mr. W. L. Burley shall be paid 8 hours' pay (at rate attached to position of Operator) for December 1, 1974 and each subsequent date, 5 days per week, until he is restored to the service of Carrier with all rights unimpaired.

OPINION OF BOARD: Claimant was dismissed from Carrier's service after investigation at which he was found guilty of violating Operating Rule 801, reading in pertinent part:

"Any employe subjecting the company to garnishment, attachment, or assignment proceedings involving his wages will be subject to discipline."

The garnishment which caused the investigation was the third in slightly over four months. After the first two occurrences Claimant had been warned that two or more garnishments were cause for dismissal. Claimant blames the garnishment on a mix-up at the bank. This does not provide an excuse. The matter was settled months before with the bank. It was claimant's lapse that caused the garnishment.

In prior awards this Board has held that excessive garnishments are grounds for discipline and dismissal. See Awards 11999, 14447, 15572, 16735 and 18053 of this Division, Awards 6773, Second Division, and 20409, First Division. In some of these awards we have reduced dismissal to a suspension for a fixed period of time (sixty days in Award 11999) or returned the Claimant to service without pay for time lost (Award 16735) when extenuating circumstances existed.

In this case extenuating circumstances exist. The extreme penalty of dismissal is not warranted. However, in fashioning an appropriate remedy we are not disposed to convert the dismissal to a thirty-, sixty- or ninety-day suspension in view of Claimant's short service. At the time of his dismissal Claimant had only twenty-three months' service. He has now been out of service twenty-seven months. Changing his dismissal to a six-month suspension or less would provide him with almost as much compensation as he earned in his entire period of employment prior to his dismissal.

We will, therefore, order that he be restored to service with all rights unimpaired but without compensation for time lost.

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 violated.

A W A R D

Claim sustained as indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 31st day of May 1977.