

NATIONAL RAILROAD ADJUSTMENT BOARD

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Award Number 21589
Docket Number CL-21398

Joseph A. Sickles, Referee

PARTIRSTODISPGTE: { **Brotherhood of Railway, Airline and**
Steamship **Clerks, Freight Handlers,**
Express and Station **Employees**
(Southern Railway **Company**)

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood, GL-7950, that:

(a) Carrier violated the Clerks' **Agreement** at **Knoxville, Tennessee** when it unjustly dismissed Mr. James L. Johnson, Crew Dispatcher, from the service of the Carrier effective **March 22, 1974** for allegedly failing to **properly** perform his &ties.

(b) Carrier shall **be required** to compensate Mr. James L. Johnson at the Crew Dispatchers rate beginning **March 22, 1974** through August 3, 1974 when he was restored to service on a leniency basis.

OPINION OF BOARD: On **March 22, 1974**, Claimant **was** dismissed from service for calling employees to **deadhead** before the employees had received proper rest.

The record shows that Claimant was **directed** to call a crew to **deadhead** at **6:45 p.m., March 20, 1974**. In doing so, Claimant neglected to note that members of the crew he **called** were not **legal** to operate until **7:18 p.m.** and **7:25 p.m.** The crew accepted the call **without complaint** or protest until a later time, **although there is evidence** that on other occasions when crews were called before their rest was up, they so advised of that fact.

The Claimant conceded, at the investigation, that he called a crew without proper rest. The **record** also shows that Claimant's prior work history does **not** operate to his benefit. **However**, the Carrier's action of restoring Claimant to service, on **August 3, 1974**, on a leniency basis, makes it unnecessary for us to **consider** if the disciplinary action was excessive.

FINDINGS: The Third Division of the **Adjustment Board**, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and **all** the evidence, finds and holds:

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;

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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: *A. W. Pauls*
Executive Secretary

Dated at **Chicago, Illinois,** this 17th day of **June 1977.**