

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award **Number** 21625
Docket Number CL-21859

George S. Roukis, Referee

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

PARTIES TO DISPUTE: (

(Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(GL-8232) that:

1. Carrier acted arbitrarily, capriciously and in a harsh manner when it dismissed from its service Clerk C. J. **Linderman, Jr.**, Seaboard Coast Line Railroad Company, Tampa, Florida, on April 18, 1975.

2. Carrier shall be required to return C. J. **Linderman, Jr.** to the service and reimburse him the amount of wages and other benefits he would have earned absent the violative act.

OPINION OF BOARD: Claimant was dismissed from Carrier's service for marking off sick for the period **7:20 P.M., February** 19, 1975, until 8:00 P.M., February 23, 1975, during **which** time it developed that he was playing in a danceband on February 21 and 22, 1975, and for failure to answer correspondence directed to him by the Superintendent of Terminals.

We have carefully reviewed the transcript of the investigation and find that none of the claimant's substantive procedural rights were violated.

It was brought out in the investigation that while claimant laid off sick from **7:20 P.M., February 19, 1975, until** 8:00 P.M., February 23, 1975, *and* was paid sick leave for those days, claimant admitted that while marked off sick he was engaged in playing in a dance band.

Considering the entire record in the case, including claimant's prior record, which was far from exemplary, we do not find Carrier's **termination** of claimant's services to be arbitrary, capricious or in bad faith. The claim will, therefore, 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 ~~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

The termination of the claimant was not arbitrary, capricious or in bad faith.

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 29th day of July 1977.

