

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22500  
Docket Number CL-22629

Paul C. Carter, Referee

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

PARTIES TO DISPUTE: (

(The Washington Terminal Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
GL-8610, that:

(a) Carrier violated the rules of the Agreement effective July 1, 1972, particularly Article 18 and others when, effective August 1, 1977, it arbitrarily **terminated** the employment of Ms. **Alfreda Pearce**, as a result of improper investigation held on July 26, 1977.

(b) Carrier's action **in** dismissing **Ms. Pearce** from service on **unproven** charges was **unjust**, unreasonable and an abuse of Carrier's discretion.

(c) Carrier shall now restore Ms. Pearce to active service with **her seniority** rights unimpaired and permit her to **return** to her **former** position or any other position bulletined during her absence that her seniority will entitle her to.

(d) Carrier shall • sponge from her **record** any notation placed **thereon**, as a result of its improper action and compensate **Alfreda Pearce** for all time held out of service, including **protective** agreement payments which would have accrued to her had she remained in service, **inclusive** of reimbursement for any medical **expenses, hospital, surgical** or related expenses that Ms. Pearce **is** required to **assume** for herself and/or dependents, to the extent that such expenses would have been paid by Travelers **Insurance** Company had Claimant continued **in** Carrier's **service**.

OPINION OF BOARD: The record shows that on four occasions Claimant's superior officer wrote to Claimant **instructing** her to report to Carrier's Medical Examiner, the last such letter being dated July 13, 1977. All the letters were sent to Claimant's last **known** address - 1313 Iverson Street, **Oxon Hill**, Maryland 20021.

A8 Claimant did not comply with the instructions, on July 19, 1977, a letter was sent to her at her **last known** address, **charging** her with **insubordination** in failing to comply with **instructions**, and scheduling investigation for July 26, 1977. The letter **of charge** was sent Certified Mail - Return Receipt Requested. In addition, on July 19, 1977, two of Carrier's Terminal **Police** Officer<sup>s</sup> went to Claimant's last known address, to **deliver** a copy of the letter of charge to her. They found the apartment vacant, checked with the **rental office**, and **were advised** that **claimant** "had moved one night last week" and that she (the rental agent) did not **know** where she **had lived to**.

Claimant did not appear at the investigation, which was held in her absence; however, a **representative** of the organization was present. On August 1, 1977, Claimant was dismissed from service.

The Board finds that Carrier made every reasonable effort to contact Claimant and to inform her of the charges **against** her. Claimant's **failure** to receive the notice of hearing **was** not the fault of the Carrier, but her own. The claim will 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 Employee involved in this dispute are respectively Carrier and **Employee 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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Parker  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1979.