

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22730
Docket Number CL-22641

Joseph A. Sickles, Referee

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

PARTIES TO DISPUTE:

(
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: Claim of the System ~~Committee~~ of the Brotherhood
(GL-8613) that:

1. Carrier acted in an arbitrary, capricious, discriminatory and ~~unjust manner when on February~~ 6, 1976, it disqualified Keypunch Operator W. R. Bell as a Keypunch Operator in Computer Services, Roanoke, Virginia.

2. Carrier further acted in an arbitrary, capricious, discriminatory and unjust manner when following formal investigation on June 3 and 7, 1977, it ruled that ~~Keypunch Operator~~ W. R. Bell had not been unjustly treated and permit the disqualification to stand.

3. Carrier shall now be required to remove and expunge the disqualification dated February 6, 1976, from the record of ~~Keypunch~~ Operator W. R. Sell.

4. Carrier shall further be required to place ~~Keypunch~~ Operator W. R. Bell back into the ~~Keypunch~~ Section, Computer Services, Roanoke, Virginia, forthwith, should he so desire to return to that location.

5. Carrier shall further be required to pay ~~Keypunch~~ Operator W. R. Bell the difference in the rate of pay he would have earned as a ~~Keypunch~~ Operator in Computer Services, Roanoke, Virginia and other positions held by him, February 6, 1976, forward.

OPINION OF BOARD: The Claimant was advised that he was disqualified as the Keypunch Operator on Position No. 197.

The ~~employee~~ requested an "unjust treatment" hearing, which was denied. Thereafter, a Public Law Board held that the ~~employee~~ was entitled to such a hearing, and it was conducted.

Subsequent to the hearing, the Carrier determined that the evidence submitted did not support the charge of "unjust **treatment** and discrimination."

We **have noted** a procedural argument presented by the **Employees**, however we feel that the case is properly disposed of on its merits.

There is evidence of record to demonstrate **that** the **employee** was aware of the percentage minimum which was an accepted standard, and moreover, there is evidence that the **employee's Keyplex** Machine was "**inoperative**" for a Significant amount of time.

The Claimant suggests that he has been singled out for harassment, however we are unable to find any evidence of record to support that allegation. Certainly, it is incumbent upon the **employee** to present some evidence to support the basis **for** his conclusion that he has been treated unjustly. **However**, we are unable to find any such evidence in this record and, accordingly, we will deny the claim.

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

T&t the **Agreement** was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 31st day of January 1980.