

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22795
Docket Number **CL-22858**

Paul **C.** Carter, Referee

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

PAFCCIES TO DISPUTE: (

(Missouri-Kansas-Texas Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (**GL-8825**)
that:

(1) Carrier violated the rules of the current **Rules Agreement** between the parties (DP-45) including but not limited to Rules 26, 27, 28, 30 and 33, when on March 20, 1978 it suspended Ms. G. F. Lindsey, Swing Clerk, General Office, **Denison**, Texas, for sixty (60) days for allegedly having an unsatisfactory production record and violating Rule 6 of Carrier's Accounting Department Rules and Regulations.

(2) Carrier further violated those same Rules when by letter dated March 30, 1978, Carrier's Auditor-Revenue Mr. **J. C. LaGrone** removed Claimant from Carrier's service, while she was on suspension for allegedly destroying a file in violation of Carrier's General **Rule "D"** of Circular DP-2 and Rule 12 of the Accounting Department **Rules** and Regulations.

(3) Carrier shall reinstate Claimant to its service with her seniority, vacation, insurance and all other **employee** rights restored unimpaired, her record cleared of these charges and compensate her for all time lost **commencing** with March 21, 1978, account of the Carrier suspending and the dismissing of Claimant from its **service** without just cause or giving a precise reason of violation of current agreement DP-451.

OPINION OF BOARD: Claimant, who had been employed in Carrier's Accounting Department about ten years, was the occupant of Swing Clerk Position No. 48, Data Control Bureau, Revenue Division, in the general offices of the Carrier at Denison, Texas.

On **March** 20, 1978, claimant was notified by the Auditor-Revenue that she was suspended from service for a sixty-day period for unsatisfactory work **performance** and violation of Rule 6 of **Carrier's Account** Department Rules and Regulations, which, together with a previously imposed five-day deferred suspension, made a total of sixty five days.

On March 30, 1978, while on suspension, claimant was advised by the Auditor-Revenue that she was removed from the service for alleged violation of Carrier's General **Rule** D of Circular DP-2, and **Rule** 12 of the Accounting Department Rules and **Regulations**.

The rules and regulations referred to in the letters of **March** 20 and 28, 1978, are quoted in the record and will **not** be repeated here.

On March 31, 1978, claimant requested an investigation in accordance with Rule 27 of the applicable Agreement. The investigation was conducted April 12 through April 14, 1978, and on April 21, 1978, claimant was advised that the discipline previously administered in the **letters** of **March** 20 and March 30, 1978, was reaffirmed.

A copy of the transcript of the rather lengthy investigation has been **made** a part of the record. **On** review of the transcript, the Board is of the opinion that considerable unnecessary rhetoric was engaged in. However, we find that none of claimant's substantive procedural rights was violated.

There was substantial evidence adduced at the investigation to support disciplinary action against the claimant. However, based upon the entire record, the Board finds that **permanent** dismissal was overly severe. We will award that claimant be restored to the service with seniority and other rights unimpaired, but without any compensation for time lost while out of the service.

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 discipline imposed was excessive.

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Claim sustained to the extent indicated in Opinion and Findings.

NATIONAL RAILROAD **ADJUSTMENT** BOARD
By Order of Third Division

ATTEST: *A.W. Pauls*
Executive Secretary

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