

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22811
Docket Number CL22810

Paul C. Carter, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
PARTIES TO DISPUTE: (
(The Western Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8776)
that:

1. The Western Pacific Railroad Company violated the Rules of the Clerks' Agreement when It arbitrarily and capriciously removed Mr. Blane Hassel from service on April 5, 1978, on inadequate charges that were unproven.

2. The Western Pacific Railroad shall now be required to compensate Mr. Blane Hassel for all time lost since and including April 5, 1978, as well as all other rights unimpaired and clear the record of all charges arising from the investigation conducted on March 29, 1978.

OPINION OF BOARD: Following a formal investigation conducted on March 29, 1978, claimant was dismissed from service on April 5, 1978, for failure to protect his assignment as relief crew clerk on February 2, 1978. A copy of the transcript of the investigation has been made a part of the record.

The Board has carefully reviewed the letter of charge, the transcript of the investigation, and the on-property handling of the dispute, and finds that none of claimant's substantive procedural rights was violated. See Award 21918 involving the same parties but another claimant.

Based upon the facts developed in the investigation, the Board finds that discipline was warranted; however permanent dismissal was excessive. The time that claimant has been out of service should constitute sufficient discipline. We will award that claimant be restored to service with seniority and other rights unimpaired, but without any compensation for time lost while out of 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 Employes involved in this dispute are respectively Carrier and Employes 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.

A W A R D

Claim sustained to the extent indicated in Opinion and Findings.

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

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 18th day of April 1980.

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