

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 22866
Docket Number CL-22955

Paul C. Carter, Referee

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

PAKCES TO DISPUTE: (

(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (GL-8822)
that:

(1) Carrier violated the Agreement between the Parties when it improperly dismissed Cleaner Joseph J. Johnson, Jr., from service effective September **1**, 1978, and

(2) Carrier, as a result of such impropriety, shall be required to restore Mr. Joseph J. Johnson, Jr. to Carrier's service with all rights unimpaired and compensate him for wage Losses suffered **commencing** September **1**, 1978, and continuing until restored to such service.

OPINION OF BOARD: The claimant held a regular assignment as a cleaner in Carrier's Central Building at Baltimore, Maryland, with assigned hours 11:00 P.M. to 7:00 A.M., Monday through Friday. **On** August 22, 1978, claimant was notified to attend an investigation at **10:30** A.M., on August 29, 1978, on the **following** charge:

'You are charged with responsibility in connection with failure to properly protect your assignment of Cleaner and absenting yourself without proper permission on the dates of July 27 and 28, 1978.

"You are also charged with reporting Late for duty on **July 20 and 21, 1978.**"

The investigation was conducted as scheduled, and on September 1, 1978, claimant **was** notified of his dismissal from service. A transcript of the investigation has been made a part of the record. A review of the transcript and the record of the handling of the dispute on the property **shows** that none of claimant's substantive procedural rights was violated.

There was substantial evidence adduced at the investigation **in** support of the charges against claimant. The Carrier has also called attention to claimant's work attendance record since being **restored** to the

service as a result of Award No. 21346 of this Board, rendered on December 16, 1976, involving a charge against the same claimant of failure to properly protect his assignment, absence without permission and failure to properly notify Carrier of his whereabouts. Claimant's work attendance record since January, 1977, has been far from satisfactory.

In Award No. 21346 the Board stated -

"It is the opinion of the Board that the discipline imposed by Carrier has served its purpose. The Board is of the opinion that the Claimant be returned to service without back pay, but with all other rights unimpaired and that the disciplinary action be made a part of Claimant's record. The Claimant should understand without any question that it is absolutely mandatory and necessary that he maintain a reasonable attendance record and that he be a dependable **employee** of the Carrier. This is the final opportunity for Claimant to correct his improper conduct. The Board expects him to fully live up to the obligation to his job."

Apparently Award No. 21346 did not have the desired effect. It is clear that the claimant failed to heed the Board's warning that he maintain a reasonable attendance record and that he be a dependable employee of **the Carrier**. 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 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 Agreement was not violated.

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Claim denied.

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

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 30th day of May 1980.