

RATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **22871**
Docket Number CL-22879

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Southern Railway Company
(
(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(**Express and Station Employees**

STATEMENT OF CLAIM: Carrier did not violate the agreement with the Brotherhood of Railway, **Airline** and Steamship Clerks as alleged, when it dismissed Mr. V. Cleveland, Line of Road Extra Board Clerk, **Spartanburg**, South Carolina, from the service of the Carrier for cause on August 2, 1977, **following** a fair and impartial investigation.

Since the **agreement** was not violated, Mr. Cleveland is not entitled to payment for all time lost **beginning** August 2, 1977; and continuing until he is restored to service with all rights unimpaired, as **claimed** in behalf of Mr. Cleveland and by the Clerks' Organization.

Carrier's file 'CL-26727

OPINION OF BOARD: Claimant was an Extra Board Clerk on Carrier's Piedmont Division. He was called to protect the 5 a.m. to 2 p.m. porter's position at Greenville between July 12 and July 16, 1977. Claimant informed Carrier representatives that he could not work because his wife was recuperating from surgery and he had to stay **home**.

On July 19, 1977, claimant was called to protect the 8 p.m. to 5 a.m. porter position in Charlotte, North Carolina, beginning on July 21, 1977. Carrier's representative was told by claimant's wife **that** he was out of town. This information was passed on to the Superintendent of the Division. The Superintendent instructed claimant's supervisor to find out where claimant was and to inform him that he was expected to appear for **work** on July 21, 1977.

It was subsequently discovered that claimant was attending a training program for corrections officers. It was well **known** that claimant also worked as a corrections officer while holding a job on the Extra Board with the railroad. Claimant was properly notified that he should appear for work as scheduled. **He** failed to do so. Carrier subsequently held a hearing into the matter and, as a result of that hearing, discharged claimant for failure to protect his **assignment** on July 21, 1977.

The transcript of that hearing has been made a part of the record of this case and it reveals that claimant was not denied any substantive procedural rights during the handling of the case on the property.

The record also clearly indicates that **claimant** was not properly marked off on July 21, 1977, and that he was obligated to appear for work as directed. Claimant, however, was attending a training program for corrections officers and his program was not completed until July **22nd**. The facts reveal that claimant chose to ignore his obligation to show up for work on July 21, 1977; instead, he chose to complete his training program, which was related to his secondary employment.

It is not **uncommon** for railroad **employees** to moonlight, holding second jobs. If this outside work does not interfere with the **employees'** performance of their jobs on the railroad, no problems arise. But when an employee puts his outside job ahead of his obligation to the railroad, carrier is justified in **taking** action. **Claimant** in this case made a decision to subordinate his obligation to the railroad to his desire to receive training as a corrections officer. Carrier is not obligated to continue him in its employ.

This Board need not at this late date cite the **numerous** awards that speak to this point. Suffice it to say that each **employee** has an obligation to appear at work, as expected, **and** to stay away from work only for legitimate reasons. This does not include staying away from the job to prepare for work with another employer. **Claimant** in the case chose to complete his police training rather than appear for work when called. He made this decision at his own peril. Carrier is justified in terminating him for his actions.

FINDINGS: The Third Division of the Adjustment **Board, after** giving the parties to this **dispute** due notice of **hearing** thereon, and upon the whole record and all the evidence, finds and holds:

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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That the dismissal of Mr. V. Cleveland is upheld.

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

ATTEST: *A. W. Paulos*
Executive Secretary

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