

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23424
Docket Number CL-23395

A. Robert Dowry, Referee

PARTIES TO DISPUTE: { (Brotherhood of **Railway**, Airline and Steamship Clerks,
(Freight **Handlers**, Empress and Station **Employees**
(**Chicago**, Milwaukee, St. Paul and Pacific Railroad **Company**

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(GL-8999) that:

(1) **Carrier** violated the Clerks' Rules Agreement in Seniority District No. 7 on July 24, 1978 **when it** falsely accused employe E. H. Pope of **accepting** a leave of absence other than as **defined by** rule, rather than holding an investigation to develop the facts and **circumstances surrounding** the events in question.

(2) **Carrier** further violated, and **continues** to violate the Agreement when it removed Pope from service and denied **him** the right of investigation in line with the provisions of Rule 22(f).

(3) Carrier shall be required to restore employe Pops to his former position with all seniority rights and other right unimpaired and compensate him for all wage loss sustained from July 24, 1978 and continuing for each workday thereafter.

(4) Carrier shall be required to **make** employe Pope whole for any money he was required to spend for medical, dental or hospital service and other benefits **for** which he would otherwise be covered beginning on July 24, 1978 and continuing until he **is** restored to service.

(5) Carrier shall be required to pay interest in the **amount of seven** and one-half ($7\frac{1}{2}$) percent on all wage loss sustained from July 24, 1978 and continuing until he is restored to service.

OPINION OF BOARD: Except for **Carrier's** arguments on procedural defects, this dispute falls on all fours with the disputes resolved by Referee Paul C. Carter **in** Award 22479 and **this** Referee in Award 23119.

Carrier argues that Claimant Pope did not comply with Rule 22(f) by filing his request for hearing with an officer of the Carrier other than his **im-**mediate superior officer, however, the request was filed with the officer who notified him of his dismissal. The Carrier also contends the **Organization** did not make timely appeal of the claim under Rule 36. The **Board** finds the appeal was filed within 60 days from the date of the **Carrier's** letter notifying **claim-**ant he had forfeited all seniority.

The Board concludes that Awards **22479** and **23119** are controlling in this dispute and awards **reinstatement** of claimant with full seniority and **all** other rights unimpaired with back **pay** as specifically agreed upon by the parties in Rule 22(e).

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 violated.

A W A R D

Claim sustained in the **manner** and to the extent set forth in the Opinion,

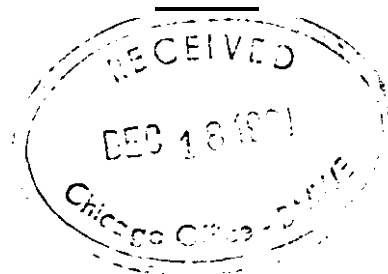
NATIONAL RAILROAD **ADJUSTMENT** BOARD
By Order of Third Division

ATTEST:

A. W. Paulsen

Executive Secretary

Dated at Chicago, Illinois, this **3rd day** of November **1981**.



NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

INTERPRETATION NO. 1 TO AWARD NO. 23424

DOCKET NO. CL-23395

NAME OF ORGANIZATION: Brotherhood of Railway, Airline and Steamship Clerks,
Freight **Handlers**, Express and Station **Employees**

NAME OF CARRIER: Chicago, Milwaukee, St. Paul and Pacific
Railroad Company

Upon application of the Carrier involved in the above Award that this Division interpret the same in the light of the dispute between the parties as to the meaning and application, as provided for in Section 3, First (m) of the Railway Labor Act, as approved June 21, 1934, the **following** interpretation is made:

It is well established that the purpose of an interpretation is to explain and/or clarify the Award as originally made and not to make a new Award.

The **original** Award, upon which an interpretation is sought, held that the Carrier violated the agreement. **This** interpretation **confirms** and reinforces that decision.

The Carrier contends that the language in the first sentence of the second paragraph of the **"Opinion** of the Board" rewrites Rule **22(f)** and materially changes its application. It was not the intent of the **Board** to rewrite the rule **ad to eliminate that contention** we will in this interpretation delete that sentence from the Award. And, the third word, **"also"**, is deleted from the second sentence of that paragraph.

To eliminate any **further** misunderstanding of the Award and to expedite compliance of this **two** year old Award, the penultimate paragraph of the **"Opinion of the Board"** is deleted and the following **substituted** in its place:

"The Board concludes that Awards 22479 and 23119 are controlling and **so concludes** that the Carrier violated Rule **22(a)** by not preferring charges against Claimant and not conducting a hearing as provided in the rule. and **awards reinstatement of Claimant with full seniority** and all other rights unimpaired with back pay as specifically agreed upon by the parties in Rule **22(e).**"

Referee A. Robert Lowry, who sat with the **Division** as the Neutral member when Award No. 23424 was adopted, also participated with the Division in **making this** interpretation.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST : *Nancy J. Devel*
Nancy J. Devel - Executive Secretary

Dated at Chicago, Illinois, this 4th day of **November**, 1983

