

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24060  
Docket Number CL-24290

Edward M. Hogan, Referee

PARTIES TO DISPUTE: ( {Brotherhood of Railway, Airline and Steamship Clerks,  
{ Freight Handlers, ~~Express~~ and Station ~~Employees~~  
(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-9503) that:

(1) Carrier did violate the effective Clerk-Telegrapher Agreement when, on December 1, 1980, it unjustly dismissed Clerk operator D. L. Jefferson from ~~Carrier's~~ service, and

(2) As a result of such impropriety, Carrier shall be required to reinstate Mr. D. L. Jefferson to his ~~former~~ position ~~and~~ compensate him for all wages lost, ~~commencing~~ December 1, 1980, and continuing until reinstated.

OPINION OF BOARD: Clerk Operator D. L. Jefferson was dismissed from the service of the Carrier on December 1, 1980, following a formal ~~investigation~~ after which he was found guilty of using profane vulgar language, conduct unbecoming an employe and threatening the ~~Trainmaster~~. Prior to his dismissal, Claimant was one of nine former CRI & P Railroad (Rock Island) clerical ~~employees~~ hired by the B&O in August 1980, to perform service on the former Rock Island Subdivision under Agreement ~~made~~ March 4, 1980, commonly referred to as the "Miami Accord." The Board will examine three issues raised by the Claimant:

- (1) Whether a fair ~~and impartial~~ hearing occurred;
- (2) Whether there was sufficient evidence of record to find ~~Claimant~~ guilty of the charges; and
- (3) Whether the discipline should be dismissed.

First, it is the opinion of the Board that Claimant was given a full and fair hearing in ~~compliance~~ with Rule 47 of the Agreement. The record of the investigation clearly shows that the hearing was conducted in a fair and impartial manner with proper notice of the charges, sufficient time to prepare a defense, and the opportunity to present and cross-examine witnesses. The Claimant ~~was~~ present at the investigation and assisted by a representative of his choice.

Second, it is the opinion of the Board that there exists substantial evidence in the ~~record~~ to support the charges of using profane and vulgar language, conduct unbecoming an ~~employe~~, and threatening the ~~Trainmaster~~. Longstanding opinion of the Board clearly held that this Board will not upset the ~~findings~~ of a properly conducted investigation where there is substantial evidence to support the charges.

Third, it is the **opinion** of this **Board** that the seriousness **and** gravity of these offenses **support** the discipline as assessed by the **Carrier** and that this Board will not **interfere** with the **discipline imposed**.

**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** ad **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.

A W A R D

**Claim** denied.

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

**ATTEST:** **Acting Executive** Secretary  
**National** Railroad Adjustment Board

By  \_\_\_\_\_  
Rosemarie Brasch - Administrative Assistant

Dated at **Chicago, Illinois**, this 14th day of December 1982.

