

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **24134**  
Docket Number CL-23433

Joseph A. Sickles, Referee

**PARTIES TO DISPUTE:** (Brotherhood of Railway, **Airline** and Steamship Clerks,  
( Freight Handlers, Express and Station **Employes**  
(The **Atchison, Topeka and Santa Fe** Railway Company

**STATEMENT OF CLAIM:** Claim of the System **Committee** of the Brotherhood  
(**GL-9015**) that:

(a) **Carrier** violated the provisions of the current Clerks' Agreement at **Barstow, California**, on or about **July 19, 1978**, when **it wrongfully** assessed the personal record of **Mr. C. R. Hinkle** with twenty demerits, and

(b) **Carrier** shall now remove the twenty demerits and any reference to the **formal** investigation held on **July 3, 1978**, from the personal record of **Mr. C. R. Hinkle**.

**OPINION OF BOARD:** In June of **1978** the Claimant was notified to attend a **formal** Investigation concerning a **charge** that he was allegedly dishonest when he attempted to secure permission to lay off at **approximately 9:40 PM** on **June 20, 1978** and the **Employee** allegedly failed to report for his regular **assignment** at **11:59** on that date.

Subsequent to the Investigation the **Claimant's** personal record was assessed twenty (20) demerits.

According to the **evidence** presented by the **Carrier**, at **9:40 PM** on the day in question the **Claimant** called the crew office and stated that he had to lay off **because** his car had broken down. When the crew caller advised the **Claimant** that he did not have the authority to grant the request the crew **clerk informed him that he** could only lay off an individual for illness at which time the **Claimant told the** crew clerk to lay him off sick. The Claimant made no attempt to contact the assistant agent to **secure** permission to lay off for personal business.

The Claimant asserts that he was unable to report for work due to the automobile difficulty which **constituted an** emergency **and** the crew **caller improperly completed the necessary form**.

We have reviewed the record at length and have noted that there is a basic credibility dispute presented. It is not our **function to** resolve credibility disputes and **under** this record there is evidence presented which substantiates the conclusions reached by the **Carrier** and accordingly we **will** deny the claim.

**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.

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  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 27th day of January 1983.

