

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24217
Docket Number MS-24304

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Robert Gladden
(**National Railroad** Passenger Corporation

STATEMENT OF CLAIM: "In regards to the decision made concerning my claim with Amtrak, I wish to appeal on the basis of the following:

1. The case was not judged by **impartial** persons.
2. A **judgement** was made on the basis of **company** rules that do not exist, **i.e. availability** for call.
3. The case was presented **in** a prejudiced manner against **me, i.e.** prejudiced opinions regarding my work performance and work record with purposeful deletion of any mention on my behalf of the years of service I put **in** for the company where I received nothing but praise for outstanding work performance; I was previously rehired by Amtrak after being unjustly fired by the **company** for work performance **during a period of illness** (substantiated by my doctors) and told that if I **declined** back pay **coming** to me this work performance **would not** be held **against me** as it now has been."

OPINION OF BOARD: **Claimant** Robert G. Gladden has worked for the Carrier since June **24, 1975**. On August **28, 1979**, the Carrier abolished Seattle **Commissary** Position C-10, which was the Claimant's job. Thereafter, he elected to be placed **in** an unassigned status. By certified letter dated November **19, 1979**, Claimant was notified to appear for a formal **investigation** for violation of Rule K **in** that he had not reported nor was he available for work during the period October **23** through **November 18, 1979**. **Claimant** was subsequently required to appear for a formal investigation for a separate charged **violation of** Rule K **stemming from his** purported failure to report to the Station Supervisor on **November 27, 1979**, as **directed** by the District Supervisor.,

By mutual agreement, both investigations were rescheduled and conducted on December **12, 1979**. By separate letters dated December **21, 1979**, Claimant was notified he had been found guilty of both charges and was terminated.

The two records establish **Claimant** was assigned to **cover** a vacancy **in** the Seattle **Commissary** on August **29** and worked that position through September **28, 1979**. Subsequently he was not available for work and made no contact with the Carrier. On October **23, 1979**, the District Supervisor began **calling** the Claimant's residence once or twice each day without establishing contact. On November **5, 1979**, he was **informed** the telephone had been disconnected. From November **5** through the **18th**, the District Supervisor continued to **check** the disconnected **number in** order to ascertain whether a new **number was listed**. By certified letter dated **October 31, 1979**, **Claimant** was advised by the District Supervisor to "contact a Station Supervisor for the purpose of reporting in and

the availability of work." The letter was signed for by **Claimant's** wife on November 9, 1979. On November 27, 1979, telephone contact was made with Claimant, and he was instructed to **call** the Station Supervisor. He did not do so.

This Board has **determined** the records of the two investigations held on December 12, 1979, support by substantial evidence the Carrier's **termination** of Claimant. Claimant was aware of the responsibilities required of an unassigned **employee**. The Carrier correctly determined his excuses for failing to call in were without **merit** as was his explanation for non-compliance with instructions to call the Seattle Station Supervisor on November 27, 1979. In conclusion, there **is simply** no basis for this Board to disturb the Carrier's action.

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.

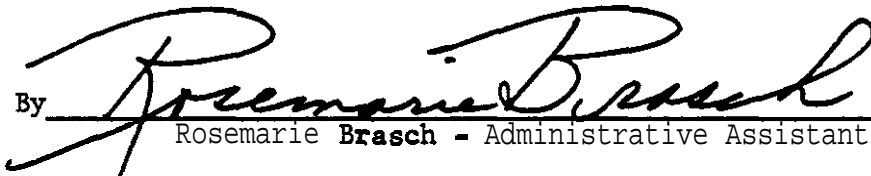
A W A R D

Claim denied.

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

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie **Brasch** - Administrative Assistant

Dated at Chicago, **Illinois**, this **14th** day of **March** 1983.

