

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Award Number 24408  
Docket Number CL-24474**

**William G. Caples, Referee**

**(Brotherhood of Railway, Airline and Steamship Clerks,  
Freight Handlers, Express and Station Employees**

**PARTIES TO DISPUTE:**

**[The Western Pacific Railroad Company**

**STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-9545) that:**

**1. The Western Pacific Railroad Company violated the Rules OR  
Clerks Agreement when it arbitrarily and capriciously removed Ms. Pauline  
Lewis from service January 13, 1981, on inadequate charges that were un-  
proven and failed to return her to service until February 23, 1981.**

**(2) The Western Pacific Railroad shall now be required to  
compensate Ms. Pauline Lewis for all time lost from and including January 13,  
until and including February 23, 1981.**

**OPINION OF BOARD: On January 13, 1981, Claimant, a Guaranteed Extra Board  
Clerk, la the Operating Department, of the Carrier's  
San Francisco General Office as a result of an incident occurring that day  
was served a Notice of Formal Investigation on January 14, 1981, which  
stated as its purpose:**

**"...to ascertain facts and place your responsibility,  
if any, for your alleged insubordinate behavior to  
J. W. Long, General Supervisor-Demurrage at 8:00 A.M.,  
Tuesday, January 13, 1981, and also for your alleged  
unauthorized absence on January 13, 1981...."**

**As a result of the investigation the Director-Operating Administration found  
he could "only conclude the charges of insubordination to Mr. Long and your  
unauthorized absence were substantiated by the bulk of the testimony" and  
dismissed Claimant rna service. Thereafter, a claim was filed on Claim-  
ant's behalf for her restoration to service and payment of lost wages. On  
February 23, 1981 Claimant was restored to service with seniority rights  
unimpaired without prejudice to her right to pursue the claim for lost  
wages.**

**Before we speak to the substantive issues left to our juris-  
diction we must speak to the procedural issues raised by the Organization,  
that the charges were multiple, no proof of violation (or rules). Ye have  
carefully reviewed the complete record and although It is shown some disci-  
pline other than discharge is warranted we find no violation of procedural  
rights.**

The Question thus left for determination Is whether the discipline is unjust or excessive. In this instance the Board finds that the discipline was excessive. The discipline shall be reduced to 10 working days and she shall be compensated for all time lost in excess of the 10 working days at her regular rate up to February 23, 1981, when she returned to work.

**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 accordance with the Opinion.

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 15th day of June 1983.

12-17-83  
9-7-83