

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24868  
Docket Number CL-24609

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employees  
(  
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9586)  
that:

(1) Carrier violated the Agreement at Chamblee, Georgia, when on January 19, 1981, it dismissed Claimants R. L. Puckett and W. L. Meeks, General Clerks, from service, on a charge of conduct unbecoming an employee.

(2) For this violation, Carrier shall restore Claimants R. L. Puckett and W. L. Meeks to service with all rights unimpaired, and compensate them for all time lost, commencing January 19, 1981, and continuing until such restoration has been accomplished.

OPINION OF BOARD: The Claimants, R. L. Puckett and W. L. Meeks, were employed as general clerks with the Carrier since August 9, 1982, and July 29, 1950, respectively. Both Claimants were advised to attend an investigation in which they would be charged with conduct unbecoming an employee in that each Claimant is claimed to have been found in possession of a case of the Carrier's lantern batteries at their homes on January 3, 1981.

The Organization admits the investigation did, in fact, show that the Claimants were in possession of the lantern batteries on January 3, 1981. Notwithstanding, the Organization asserts the record also shows the Claimants had need of the batteries in the performance of their early morning duties on company property. Additionally, the Organization contends that numerous Board awards have held that the degree of the penalty must be reasonably related to the gravity of the offense. Herein, it is argued the assessed discipline is unjust and unreasonable.

Both Claimants have extensive service with blemish free records. The batteries involved are not of substantial value. Nevertheless, both Claimants placed themselves into a position which, despite their intentions, was without authorization and did constitute conduct unbecoming an employee. The Board is informed that Claimant Puckett retired on June 5, 1981, and in view of our findings hereinafter, his claim is moot. Considering all the circumstances, this Board upholds the Carrier's right to discipline, but considers the penalty of discharge to be excessive. Claimant Meeks' discharge is to be converted into a disciplinary suspension, and he is to be restored to service without loss of seniority, but with no back pay.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes 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

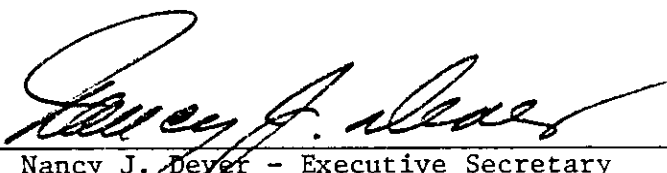
That the discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 28th day of June, 1984.