

NATIONAL RAILROAD ADJUSTMENT BOARD

TBIRD DIVISION

Award Number 25202  
Docket Number CL-25445

James Robert Cox, Referee

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

PARTIES TO DISPUTE: (

(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9827) that:

1. Carrier violated the Agreement Rules, particularly Rule 21, when under date of September 7, 1982 it dismissed from service Mr. D. A. Quenon, Clerk at South Pekin, Illinois, account of formal investigation held Thursday, September 2, 1982; and

2. Carrier shall be required to reinstate Mr. D. A. Quenon to service with all rights unimpaired, and compensate him for all monetary losses suffered from September 7, 1982 forward, until the violation is corrected.

OPINION OF BOARD: September 7, 1982, after formal investigation, Claimant was dismissed from the service for failure to properly complete a train location report August 26, 1982. While employed as an Assistant Chief Clerk at the South Pekin Station Claimant was responsible for a line-up containing a number of errors including the erroneous annulling of train number 386, a misstatement of the line-up void time, and an incorrect abbreviation for the St. Louis subdivision. There was an Extra "South" listed on the north bound train line-up instead of the correct train designation of Extra North. A serious accident was avoided in the vicinity of Luther, Illinois when a Track Supervisor operating a high-rail vehicle on the track at Luther happened to overhear a radio transmission from approaching train 386, and was alerted to leave the track. The Supervisor's track line-up showed that train 386 had ben annulled whereas it should have been listed at Stallings at 5:15 a.m. Claimant conceded that he had failed to repeat the line-up to the dispatcher as he copied it, a requirement of Rule 957. This omission contributed to Claimant's errors.

While Claimant attempted to excuse his improper work performance by explaining that the typewriter upon which he initially commenced copying the line-up had malfunctioned and that he had to finish copying it in pencil resulting in the mistakes upon subsequent retyping, he admitted that, in the course of other duties, he "completely forgot about reading it back to the dispatcher".

Although Claimant was a relatively short term employe, during the year and a half preceding his dismissal he had received a letter of reprimand and a thirty-day suspension.

Neither the malfunction of the typewriter nor any duty demands of Claimant's assignment excuse Claimant's improper work performance. The evidence is insufficient to show that Claimant could not reach the Train Dispatcher to read back the line-up when recopying, nor do the facts show that Claimant made any attempt to contact the Dispatcher. Although Claimant was filling in for another employe who was on vacation, he was qualified and responsible to perform the full scope of the classification's duties.

The record supports Carrier's decision to discipline Claimant. However, discipline of discharge does not fit the offense since it is apparent that other railroad personnel, not disciplined, including switch crews and the Dispatcher, also contributed to the distribution of the improper line-up.

Carrier shall reinstate Mr. Quenon to service with all rights unimpaired but without back pay.

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 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. Fever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1985.

