

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25909

Docket Number CL-25930

Paul C. Carter, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(The Chesapeake and Ohio Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9914) that:

(a) The Carrier violated the terms of the General Clerical Agreement when as a result of an investigation held April 21, 1982 it wrongfully and arbitrarily found Claimant R. L. Atherton responsible in connection with submitting falsified overtime tickets, time claims and payroll records and administered a discipline of dismissal from service.

2. Carrier shall now return Claimant to service with rights unimpaired and compensate him for all time lost."

OPINION OF BOARD: At the time of the occurrence giving rise to the Claim herein, Claimant was employed as Personnel Clerk at Carrier's Queensgate Terminal located in Cincinnati, Ohio. While occupying that position Claimant was responsible for preparing payroll sheets for Clerical employees at the Terminal and forwarding same to Baltimore, Maryland, for payment. On April 15, 1982, Claimant was instructed to attend investigation on April 22, 1982, on the charge:

"You are charged with responsibility in connection with submitting falsified overtime tickets, time claim and company payroll records on February 7 and February 25, 1982 for the purpose of obtaining monies to which you were not entitled.

Attend investigation in the office of Assistant Superintendent Terminal Operations at Queensgate Administration Building Cincinnati, Ohio at 9:00 AM on Wednesday, April 21, 1982.

You are responsible for arranging for a representative and any witnesses you desire"

The charge was issued by the Terminal Trainmaster.

The Investigation was conducted as scheduled. A copy of the transcript has been made a part of the record. From our review, we find that the investigation was conducted in a fair and impartial manner and that none of Claimant's substantive procedural rights was violated.

In the Investigation there was substantial evidence that for the date of February 7, 1982, in addition to eight hours for his own assignment, Claimant had entered a time slip for payment of a time claim for not being called to work another vacancy in the Terminal. The "time claim" had not been received by, reviewed by, or authorized by higher authority, as required.

The record also establishes that on February 25, 1982, Claimant had entered eight hours overtime for working the position of Personnel Clerk beyond the normal hours of that assignment. The Overtime Authorization Form submitted by Claimant showed that he had worked overtime from 5:00 P.M. until 9:15 P.M. on February 25, 1982, while the evidence showed, and Claimant admitted that he did not work the overtime claimed on the date in question.

Following the investigation, Claimant was dismissed from service effective April 29, 1982.

There was substantial evidence in support of the charge. Claimant's actions in submitting the Claims in his own behalf in the manner in which he did were serious offenses and warranted severe discipline. We note, however, that Claimant had some eighteen years of service with the Carrier, with no evidence of prior discipline. Also, he had had limited experience on the Personnel Clerk position at the time of the events here involved. Considering all the facts, we find that permanent dismissal was excessive discipline. The time that Claimant has been out of service should constitute sufficient discipline.

We will award that Claimant be restored to service, with seniority and other rights unimpaired, but without any compensation for time lost while out of service. The Claimant should understand that the purpose of this Award is to give him one last chance to become a reliable and dependable employe of the Carrier, but that further major infractions on his part will receive close scrutiny by all concerned.

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 Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 2, 1934;

That this Division of the Adjustment Board had jurisdiction over the dispute involved herein; and

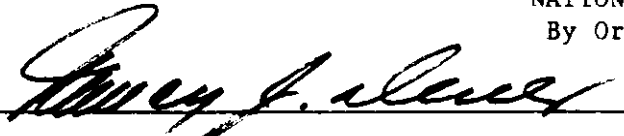
That the Discipline imposed was excessive.

A W A R D

Claim sustained in accordance with Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

A handwritten signature in dark ink, appearing to read "Nancy J. Dever", is written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1986.