

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25910

Docket Number MS-25944

Paul C. Carter, Referee

(Joseph T. Perry

PARTIES TO DISPUTE: (

(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM:

"This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex-parte submission covering an unadjusted dispute between me and the Sante-Fe Railroad involving the question of improper assesment (sic) of discipline and subsequent removal from service account accumulation of excessive demerits. I belong to BRAC."

OPINION OF BOARD: The record shows that the Claimant (the Petitioner herein) had a seniority date of December 9, 1974, on the Manager-Quality Control Seniority Roster and at the time of the instant dispute was the regularly assigned occupant of the Commodity Clerk position in the Carrier's Chicago office.

Before discussing the merits of the dispute, the Board points out that Claimant requested and was granted Hearing before the Board with the Referee present. The Hearing was conducted, beginning at 1:03 P.M., November 25, 1985. The Claimant was present and a representative of the Clerk's Organization, who acted as Claimant's representative. The Carrier was also represented.

The record shows that following a disciplinary investigation conducted on October 12, 1982, Claimant's record was assessed twenty demerits for errors in the performance of his work. The Board has reviewed a copy of the transcript of the Investigation of October 12, 1982, and we find that none of Claimant's substantive procedural rights was violated. There was substantial evidence that Claimant had made numerous errors in his work performance. We find no proper basis for disturbing the discipline of twenty demerits. The Carrier has the right to discipline an employe for improper work performance. See Awards Nos. 22795 and 23009.

On November 10, 1982, another disciplinary investigation was conducted on Claimant's alleged accumulation of sixty demerits assessed his personal record and possible violation of General rules 2 and 31 of the General Rules for Guidance of Employees, Form 2626 Standard. The Rules referred to are cited in the record and will not be repeated here. The record shows that the Brown System of Discipline has been in effect on Carrier's property since 1923. See Awards 1820 and 6382 of the Second Division, National Railroad Adjustment Board. In the investigation conducted on November 10, 1982, the Claimant testified in part:

"Q. Mr. Perry, did you hear your transcript of discipline record read by Mrs. Bowman?

A. Yes. sir.

Q. Are you aware that the balance of 60 demerits subjects an employe to dismissal?

A. Yes, sir, I am."

Based upon the entire record, the Board finds no proper basis for interfering with the actions of the Carrier.

Any allegations of Claimant concerning racial discrimination do not address themselves to this Board.

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

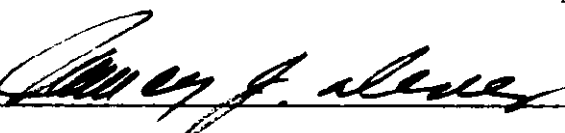
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Dever - Executive Secretary

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

