

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26064

Docket Number CL-26043

Peter R. Meyers, Referee

(Brotherhood of Railway, Airline & 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-9936) that:

1. Carrier violated the Agreement Rules, particularly Rule 21, when under date of August 2, 1983, it dismissed Mr. Charles Everett from the service of the Carrier on the basis of a formal hearing which was held on July 18, 1983, and concluded on July 26, 1983, and

2. Carrier shall be required to return Claimant, Mr. Charles Everett to the service of the Carrier with all rights unimpaired and payment for all time lost account of his dismissal."

OPINION OF BOARD: Claimant was employed by the Carrier as an Order Filler at the Material Distribution Center at Proviso Yard. Claimant was absent from duty on June 27, 1983. On June 28th, Claimant informed his Supervisor that he had been absent because of his arrest for unpaid traffic tickets. Claimant was told that he must submit documentation of this before he could return to work. Claimant returned to work on June 30th and submitted documentation of his incarceration. On July 1, 1983, Claimant was notified to attend a formal Investigation of the following charges:

"1) Your responsibility for your failure to protect your assignment; specifically, your failure to properly absent yourself from work on Monday, June 27, 1983.

2) Your responsibility for submitting false documentation in connection with your failure to properly absent yourself from work on Monday, June 27, 1983".

As a result of the Investigation, Claimant was dismissed from service, effective August 2, 1983. The Organization thereafter filed a Claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the evidence and testimony in this case, and it finds that the Claimant was granted all of his procedural rights at the Hearing; and, therefore, we hereby reject all of the procedural arguments raised by the Organization.

With respect to the substantive issue, this Board finds that there is sufficient evidence in the record to support the finding that the Claimant was guilty of failing to protect his assignment on June 27, 1983, and for later submitting false documentation in an effort to support his excuse. At the Hearing, the Claimant acknowledged that he was absent on the date in question, and he did not call to advise the Carrier that he would not be at work. Moreover, there is substantial evidence in the record to show that the Claimant had not been arrested as he stated and that the information that was contained in the record that he submitted to the Carrier had been falsified.

Once this Board has determined that there is sufficient evidence in the record to support the Carrier's finding of guilty, we next turn our attention to the type of discipline imposed on the Claimant. The Claimant has a long record of absenteeism and tardiness and had previously been suspended for thirty days for absenteeism less than three months prior to the incident in question. Moreover, the Claimant had been dismissed from service previously and later reinstated. The Claimant has been given sufficient opportunity to improve his attendance record and failed to make any improvement. Consequently, this Board finds that the Carrier's action in terminating the employment of the Claimant was not unreasonable, arbitrary, or capricious, and we will not set it aside.

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 Employee involved in this dispute are respectively Carrier and Employee 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.

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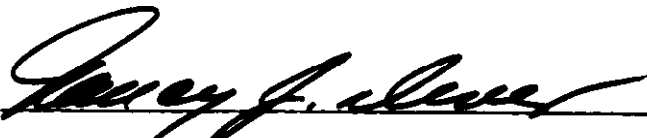
Page 3

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 8th day of July 1986.