

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26180
Docket Number CL-26574

Edwin H. Benn, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10020) that:

1. Carrier violated the terms of the current Agreement, particularly Rule 21, when it dismissed from service Mr. Lloyd Stevens, account of investigation held on July 2, 1984, and

2. Carrier shall be required to reinstate Mr. Lloyd Stevens to service with all rights unimpaired and that he be paid for all wages lost and his record be cleared of any reference to the charges and discipline assessed him."

OPINION OF BOARD: Claimant was a Crew Caller at Des Moines, Iowa. On June 12, 1984, at approximately 7:35 P.M., Claimant was given instructions by Dispatcher L. H. Elyea to call a Crew for 10:25 P.M. for Train KSPRA at Trenton, Missouri. At approximately 10:30 P.M., Claimant received a call from Trainmaster G. K. Wilson inquiring about the Crew in question. Claimant informed Wilson that he forgot and had not called the Crew when instructed to do so and that he was in the process of getting the Crew on duty as soon as possible. The Crew was called and reported at approximately 11:30 P.M. resulting in a one hour delay of the train as a result of Claimant's failure to make the call.

Claimant's record shows extensive prior discipline including letters of reprimand and suspensions for being late for assignments and failure to properly perform duties. Additionally, in August 1983, Claimant received a 60 day suspension for failure to call an Engineer to protect a yard vacancy.

Upon a close examination of the record and the evidence adduced at the Hearing, we are satisfied that there is substantial evidence to sustain the Carrier's decision to terminate Claimant's employment. Claimant clearly forgot to call the Crew as instructed, the result of which was a delay in the departure of the train. Although the parties take opposite positions on whether the Crew was rested at the time the crew was originally to report to work, we find that dispute immaterial to the disposition of the Claim since we are satisfied that the question of rest was not a part of the consideration on Claimant's part as to why he did not call the Crew as instructed. Claimant

simply did not call the Crew when and as instructed. If the Crew was not rested as asserted by the Organization, and the Crew raised the issue of rest with Claimant when called, Claimant could have so informed his superiors and other arrangements could have been made.

Nor do we find that the discipline imposed was excessive as urged by the Organization. Claimant has exhibited prior similar conduct which progressive discipline has been unable to correct. Obviously, an employee's prior record can be considered in assessing whether or not the discipline imposed is arbitrary, discriminatory or an abuse of discretion. See Third Division Awards Nos. 25189; 24944; 24932; 24878; 24798. On the basis of the entire record before us, we find no sufficient reason to set aside the discipline imposed.

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 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 24th day of November 1986.