

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26181

Docket Number CL-26575

Edwin H. Benn, 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-10021) that:

1. Carrier violated the Rules of the current Clerks' Agreement when on July 6, 1984, L. E. Stevens was dismissed from the service of the Carrier after investigation held on July 2, 1984, and

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

OPINION OF BOARD: Claimant is the same employee whose employment was terminated by the Carrier and upheld by this Board in Third Division Award No. 26180.

In this Claim, the record discloses that on June 17, 1984, Claimant was instructed by Trainmaster J. Homstad to call a Hostler at 6:30 A.M. as soon as possible. The Hostler did not have a phone but instead carried a beeper. Although the Carrier concluded otherwise, Claimant asserts that he called the Hostler's beeper. However, the Hostler did not respond and hence did not report to work when needed and Claimant made no notation of the Hostler's failure to respond. The Hostler's failure to report to work was not noticed until 9:50 A.M. The Crew Caller on the shift following Claimant's then called the same beeper number and the Hostler responded and reported to work at 11:00 A.M.

The Carrier maintained special instructions for Crew Callers that when calling beeper numbers or if someone else takes a call from the employee, the maximum time to wait for the employee to return the call is five minutes and if the employee does not return the call, another employee is to be called immediately.

The conduct attributed to Claimant in this manner occurred five days after the events which resulted in Claimant's first termination and is the same type of conduct that resulted in that termination and our upholding the same in Award No. 26180, i.e., failure to perform assigned duties. In this manner, we find it unnecessary to reach the arguments advanced by the parties. Inasmuch as we have upheld the Carrier's termination of Claimant's employment in the aforementioned Award, the instant Claim is therefore moot.

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 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

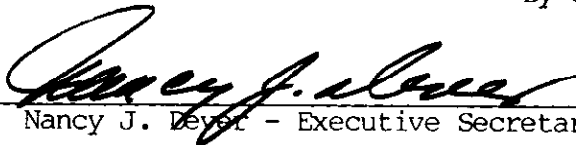
That the Agreement was not violated.

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 24th day of November 1986.