

The Third Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10192) that:

(a) Carrier violated the current Clerks' Agreement at Cleburne, Texas on June 4, 1986, when it unfairly and improperly removed G. A. Pickett from the service of the Carrier, and

(b) Facts developed at the Formal Investigation held on May 29, 1986, failed to sustain Carrier's alleged charges and did not justify or warrant the harsh and severe penalty imposed, and

(c) Claimant G. A. Pickett shall now be returned to the service of the Carrier with all rights unimpaired and paid for all monetary loss sustained as a result of being dismissed from service, his personal record cleared of all charges, and

(d) Claimant G. A. Pickett shall be paid an additional twelve per cent per annum until claim is paid."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

At the time of the occurrence giving rise to the dispute herein, Claimant was employed by the Carrier as a crew clerk at Cleburne, Texas, with a clerical seniority date of April 9, 1967. On May 16, 1986, Claimant was notified to attend formal investigation on May 29, 1986, in connection with possible violation of Rules 2, 13, 14, 15, 16, 21(d) and 26 of Carrier's

General Rules for the Guidance of Employees, alleging that he failed to protect service on his assigned position for the period May 3 through May 13, 1986, failed to furnish request for a leave of absence, and allegedly falsified payroll sheets claiming days not worked on May 3, 4, and 7, 1986. The Rules cited as having allegedly been violated were read into the investigation, are part of the record before the Board, and will not be repeated here. A copy of the transcript of the investigation has been made a part of the record. We find that the investigation was properly conducted.

The record shows that on May 3, 1986, until 10:00 A.M., May 8, 1986, there was a legal strike of certain operating crafts. The Carrier states that it did not discipline Claimant for being absent without authority during the strike period, but upon cessation of the strike all employees were obligated to contact the Carrier concerning their return to work. Claimant reported for work on May 14, 1986, although scheduled to work on May 9, 10, and 11, 1986.

The record establishes that Claimant was absent without permission on May 9, 10 and 11, 1986, and that during that time he was working for another employer.

Claimant testified in the investigation that he had filled out his payroll sheets to claim pay for May 3, 4, and 7, 1986, days on which he did not work. When an employee reports his own time, a matter of trust is involved, and care must be used in such matters.

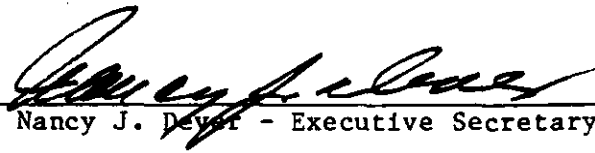
There was substantial evidence in the investigation in support of the charges against Claimant. Also, Claimant's prior disciplinary record was far from satisfactory. An employee's prior record may always be used in determining the discipline to be imposed for a proven offense.

There is no proper basis to disturb the discipline imposed by the Carrier.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of March 1989.