

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10212) that:

(a) Carrier violated the Agreement at Kansas City, Kansas by improperly removing G. P. Meriwether from its service as result of formal investigation held September 5, 1986, and

(b) G. P. Meriwether shall now be restored to service with Carrier with all rights unimpaired and with pay for all time lost beginning September 5, 1986 forward."

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 employees 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.

Claimant, a Janitor with a seniority date of September 9, 1969, marked off account personal business on August 11, 1987. Carrier concluded that she was off between August 11 and 24 without approved leave of absence and called her for an Investigation. Claimant was found to be in violation of Rules 13 and 15 and was terminated from employment. Claimant's past record included 155 demerits for failure to protect her assignment.

Claimant testified that while she was aware of the procedures for marking off, she had miscalculated the number of days she had been off and was attempting to handle family problems. Carrier noted that at the time of the Investigation, Claimant had still not marked up for service and had been off for 27 days.

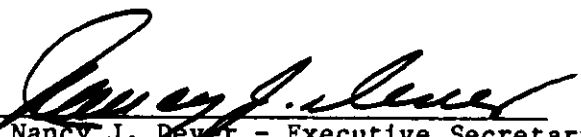
Claimant was offered, and rejected, a leniency reinstatement on May 15, 1987. Given the entire record of the case, she would have been wise to accept it. Claimant clearly erred in this instance in failing to follow procedures and Carrier responded appropriately. Given Carrier's offer, we shall return her to service, with seniority and all other rights intact, but without backpay.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1989.