

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 28084  
Docket No. CL-28475  
89-3-88-3-289

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-10281) that:

(a) Carrier violated the rules of the current Clerks' Agreement at Chicago, Illinois, when it removed Ms. C. L. Fico from service as a result of a formal investigation held on September 1, 1987, and

(b) Ms. C. L. Fico shall now be reinstated to Carrier service and paid for all loss of wages and benefits commencing on or about September 1, 1987, as a result of such violation of Agreement rules."

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.

On August 27, 1987, Claimant was charged with the unnecessary use of the Carrier's communication system for personal affairs and her alleged failure to devote herself exclusively to her duties on 13 dates between June 24 and August 9, 1987.

At an Investigation held on September 1, 1987, Claimant acknowledged making long-distance phone calls on the dates in question using Carrier's phone that amounted to \$227.97. Several of the calls were for extended periods of time--58.85 minutes, 59.3 minutes, 60.05 minutes, 65.7 minutes, and 98.85 minutes.

The Organization points out that in the case of a number of the dates cited by Carrier, the 20-day time limit in Rule 24 for charging an employe had expired. We note, however, that Claimant's supervisors were not made aware of the improper calls until five or six days prior to the time that she was told to report for an Investigation and thus it must be concluded that no time limits were violated.

Claimant's past record includes five cautionary letters and a total of 70 demerits for various rule infractions. Despite the fact that Claimant may have had family problems that prompted the calls, this Board must conclude that discipline was warranted. The failure of Claimant to devote herself to her duties for such long periods of time while misusing Carrier's phone system must be considered serious offenses. Given the extent of her infractions and her past record, the discipline imposed cannot be considered arbitrary or capricious.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Deyer - Executive Secretary

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