

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 31892  
Docket No. MS-31854  
97-3-94-3-148**

**The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.**

**(Helen J. Denoyer**

**PARTIES TO DISPUTE:**

**(Southern Pacific Transportation Company (Western Lines)**

**STATEMENT OF CLAIM:**

**"I was terminated on the grounds that I cannot incur further financial obligation which I cannot pay, i.e. request a neutral arbitrator should the decision go against me. Certainly this is/was an appeal against decision(s) previously made. I was informed by J. Huffman in Labor Relations a neutral arbitrator could be costly. And so, I appeal to you for reinstatement of employment, as is deemed appropriate in classification; including retroactive salary/wages and benefits, etc., ad infinitum."**

**FINDINGS:**

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

**The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.**

**The Claimant was employed as an Accounting Department Clerk. By letter dated January 29, 1994, the Carrier was notified by the President of the Allied Services Division, TCU as follows:**

"Pleased be advised that [the Claimant] has failed to gain and maintain membership in this Union in good standing; therefore, in accordance with the Union Shop Agreement, it is hereby requested that [the Claimant's] name be immediately removed from the seniority roster and terminated as an employee of your Company."

Upon receipt of this notice, the Carrier followed the steps of the February 4, 1953 Agreement (the "Union Shop Agreement"), including notice to the Claimant and a subsequent Hearing. Following the Hearing, the Carrier notified the Claimant that she had been "unable to present any evidence" to show that she was a member in good standing of the Organization. As a result, and in consonance with the Union Shop Agreement, the Claimant was dismissed from service.

The Union Shop Agreement also includes an appeal procedure, which the Claimant followed in part. The terminal step of such procedure is a Hearing before a mutually selected neutral arbitrator whose decision is to be "final and binding." The Claimant declined to follow the specified arbitration procedure, which resulted in her final placement in dismissal status.

The Claimant then appealed directly to the Board. Given the designation by the parties of an alternate forum for resolution of disputes involving membership maintenance, the Claimant is in the wrong forum. It is clear to the Board, however, that Claimant never paid any union dues and made no offer to do so. There is no basis to find any Carrier violation of the Union Shop Agreement or of the schedule Agreement itself.

### **AWARD**

**Claim denied.**

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**ORDER**

**This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.**

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division**

**Dated at Chicago, Illinois, this 4th day of March 1997.**