

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32425
Docket No. MS-32169
98-3-94-3-590**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(United Steelworkers of America
PARTIES TO DISPUTE: (
(Union Railroad Company**

STATEMENT OF CLAIM:

“Claim for reinstatement and removal of discipline assessed Crew Scheduler J. C. Durst and pay for all time lost as a result of dismissal from service starting June 30, 1994 and ending at reinstatement to service. Claim is also made for all seniority and all Railroad Retirement credits be restored. In essence make Claimant whole from any cause of this dismissal.”

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 were given due notice of hearing thereon.

Claimant, a Crew Scheduler, was dismissed from service by letter dated August 15, 1994 for entering time into the Crew Dispatch Timekeeping System on 60 separate occasions which resulted in his receiving eight hours pay on 52 separate occasions.

Administrative Supervisor G. Sergy is responsible for processing daily timekeeping for the Carrier's employees. According to Sergy, employees' time records are generated from a computer system which are updated by Crew Schedulers. However, Crew Schedulers are required to zero out all time for themselves in the computerized system because Crew Schedulers are paid from a manual time report for salaried employees. Sergy reviews and approves the computerized reports.

On June 21, 1994, after Sergy verified the computerized reports, she noticed a report from June 19, 1994, which contained eight hours of straight time for Claimant on June 19, 1994. Sergy investigated and discovered that Claimant's records since the beginning of 1994 showed numerous eight hour entries when his record should have been zeroed out. The result was that Claimant was being paid through the computerized and manual systems—i.e., Claimant was being double paid.

The Carrier then installed a Special Audit Trail to log all activity of timekeeping from the Crew Schedulers' terminal in the Dispatch Office. Subsequent to the installation of the Special Audit Report, Sergy reviewed a report generated by Claimant which showed zero hours for Claimant, as required. However, the Special Audit Trail revealed that within minutes of running the report which was approved by Sergy for payment, an entry was made for Claimant on his terminal which changed Claimant's zero hours entry to eight hours.

While Claimant seeks to explain away the entries as malfunctions and the Organization asserts that the software is not tamper proof and that perhaps someone desired to retaliate against Claimant, the bottom line is that under a substantial evidence standard, the Carrier has sufficiently shown that Claimant reentered the computer system after reports had been generated and approved and added eight hours to his total. The result was that Claimant could be double paid from the computerized and manual systems. This Board does not review the evidence de novo. This Board follows a less stringent substantial evidence standard. Under a substantial evidence standard, the Carrier has met its burden. Under the circumstances, dismissal was not arbitrary.

This claim will be denied.

Form 1
Page 3

Award No. 32425
Docket No. MS-32169
98-3-94-3-590

AWARD

Claim denied.

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 21st day of January 1998.