

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33393
Docket No. CL-33971
99-3-97-3-463**

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

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (AMTRAK)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11789) that:

- 1. Carrier violated the provisions of Rule 24 when, on January 5, 1995, it held Claimant Donna Hogan from service pending a disciplinary investigation.**
- 2. Carrier acted in an arbitrary, capricious and unjust manner in violation of Rule 24 of the Agreement, when by notice of January 27, 1995, it assessed discipline of ‘Termination from Service’ against Claimant, pursuant to an investigation held on January 19, 1995.**
- 3. Carrier shall now reinstate Claimant to service with seniority rights unimpaired and compensate Claimant an amount equal to what she could have earned, including but not limited to daily wages, holiday pay and overtime, had she not been held from service and had discipline not been assessed.**
- 4. Carrier shall now expunge the charges and discipline from Claimant’s record.**
- 5. Carrier shall now reimburse Claimant for any amounts paid by her for medical, surgical or dental expenses to the extent that such payments would be payable by the current insurance provided by Carrier.”**

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.

This is a companion case to Third Division Award 33181. On January 27, 1995, the Claimant was dismissed from service having been taken out of service on January 5 account of verbal altercations on December 14, 1994 and January 5, 1995. The dismissal was reduced to a suspension and the Claimant was returned to service without backpay on March 20, 1995. The claim before the Board is for the actual time Claimant was held out of service.

The record indicates that on both dates in question Claimant used intemperate speech with her Supervisor and Chief Clerk. The Carrier has a right to expect reasonable behavior from its employees and in this instance the Claimant went beyond those boundaries. The Board will not further reduce Claimant's suspension.

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 13th day of July 1999.