

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 34066  
Docket No. CL-34963  
00-3-98-3-604

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

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12133) that:

1. Carrier violated the provisions of Rule 24 when, on October 3, 1997 it held Claimant, Ken Phillips, 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 November 17, 1997, it assessed the discipline of “Termination from Service” against Claimant, pursuant to an investigation held on November 10, 1997.
3. Carrier shall now reinstate Claimant to service with seniority rights unimpaired and compensate Claimant an amount equal to what he could have earned, including but not limited to daily wages, holiday pay and overtime, had he 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 him 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.

At the time of his dismissal from service, the Claimant was assigned as a Catering Service Worker. He had seven years' seniority. Charges against him included alleged disrespect of his Supervisor and alleged failure of "attendance to duty."

The Board reviewed the entire record and finds that the Carrier did not meet its burden of persuasion on any of the charges leveled against the Claimant.

**AWARD**

Claim sustained.

**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

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

Dated at Chicago, Illinois, this 25th day of May, 2000.