

Award No. 3944

Docket No. CL-3852

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John W. Yeager, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

STATEMENT OF CLAIM: Claim of the Terminal Board of Adjustment, Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes that the Carrier's Action in dismissing Mr. Sylvester Botto, was wholly unreasonable and unwarranted, and that:

(1) Mr. Sylvester Botto be restored to the service of the Carrier with seniority unimpaired.

(2) Mr. Sylvester Botto be compensated for all wage loss suffered by reason of Carrier's action.

OPINION OF THE BOARD: By the claim here the Brotherhood seeks to have Sylvester Botto, a baggage and mail handler, restored to service with seniority unimpaired and that he be compensated for wage loss occasioned by his dismissal from service by the carrier.

This employee was dismissed after investigation for failure to remain on duty in his position and to work overtime. The failure is not denied and it is clear that this was a violation of his duty under the agreement.

From a review of the record we are unable to say that the carrier did not act within its right and prerogative in the dismissal of this man. Having so acted nothing has been made to appear which would justify an order for his restoration to the service.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim has not been sustained.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 24th day of June, 1948.