

Award No. 6027

Docket No. CL-6093

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

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

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

Susie H. Smith, Trucker, South Philadelphia Freight Station, Philadelphia, Pennsylvania, Philadelphia Terminal Division, be returned to service with all rights unimpaired and compensated for all monetary loss sustained dating from February 5, 1948, until adjusted. (Docket E-613).

OPINION OF BOARD: Claimant was dismissed for "carelessness in performance of duty on January 8, 1948." That charge is fully sustained by the evidence at the investigation. She just simply did not look where she was walking and did not observe what she should have seen. The fact that the Carrier had some responsibility to provide a safe place to work does not exonerate the employe who is clearly negligent.

In consideration whether dismissal was proper on such a charge, we note that claimant suffered several prior injuries and while we are unable on this record to determine the cause thereof the Superintendent states that they were due to carelessness. Recognizing the Carrier' responsibility in matters pertaining to safety we cannot say that its action was arbitrary, capricious or wholly unreasonable.

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 Employes involved in this dispute are respectively Carrier and Employes 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 Agreement was not violated.

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AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 17th day of December, 1952.