

Award No. 10097

Docket No. CL-9517

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Martin I. Rose, Referee

PARTIES TO DISPUTE:

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

HOUSTON BELT & TERMINAL RAILWAY COMPANY

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

The Carrier's action in suspending Mrs. Flora Moon as PBX Operator at Houston, Texas, then working days in July 1956 for alleged failure to report for duty and protect her assignment as PBX Operator No. 661 on Thursday, June 28, 1956, was arbitrary and without just cause; that her record be cleared and that she be paid for wage loss sustained.

EMPLOYEES' STATEMENT OF FACTS: Mrs. Flora Moon is employed as PBX Operator. She has been employed more than eleven years and her name appears on the seniority roster as number ten (10) with seniority date of February 19, 1945.

On June 28, 1956, Mr. R. N. Walker, Passenger Trainmaster, charged Mrs. Flora Moon with— ". . . failure to report for duty and protect your assignment as PBX Operator No. 661 on Thursday, June 28, 1946."

Investigation was held July 3, 1956, and on July 9, 1956, Mr. W. L. Magee, Superintendent advised Mrs. Moon by letter that she was— "assessed ten (10) days' suspension from the service of the Houston Belt & Terminal Railway Company."

Appeal was made up to and including the highest officer of the Carrier designated for that purpose.

POSITION OF EMPLOYEES: We attach as Employees' Exhibit "A," Mr. R. N. Walker's letter of June 28, 1956, file 3603, to Mrs. Moon, advising her of the charges.

Employees' Exhibit "B" is the transcript of the investigation held on July 3, 1956.

Employees' Exhibit "C" is copy of Mr. W. L. Magee's letter of July 9, 1956, to Mrs. Moon advising her of the discipline assessed.

tection of her assignment. With eleven years experience, she fully understood that the nature of her work required that, for service to be adequately protected, her job could not be blanked or its duties deferred.

Carrier asks and believes that your Board, agreeing that the discipline assessed was indeed moderate, will deny this claim.

(Exhibits not reproduced.)

OPINION OF BOARD: The same Claimant is before us here as in Award 10096.

Claimant Flora Moon was charged on June 28, 1956 with "failure to report for duty and protect your assignment as PBX Operator No. 661 on Thursday, June 28, 1956."

A proper investigation was held on July 3, 1956 and on July 9, 1956, she was assessed ten days suspension from service by Carrier's Superintendent.

We are unable to find anything in the transcript of the investigation, or the record, that would permit us to substitute our judgment for that of the Carrier under the confronting circumstances. Hence, claim must be denied.

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 6th day of October, 1961.