

Award No. 11523

Docket No. TE-13775

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Charles W. Webster, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**NEW YORK CENTRAL RAILROAD COMPANY
(Western District)**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the New York Central, Western District, that:

Miss Rita Ullom, who was improperly and unjustly dismissed from the Carrier's service on August 11, 1961, be restored thereto and returned to her former position of Ticket Clerk, La Porte Ticket Office with all rights unimpaired and paid for all time lost.

OPINION OF BOARD: On August 1, 1961, the claimant, Miss Ullom, reported for work fifty minutes later than the assigned starting time of her position. She was charged with violation of a rule requiring employees to report for work at the designated time.

At the hearing, which was timely held and otherwise in accordance with provisions of the agreement, the claimant admitted the charge but pleaded extenuating circumstances in that a heavy rain and thunderstorm had occurred during the previous night, apparently interfering with operation of her electrical alarm clock.

The Carrier's decision was rendered on August 10, 1961, dismissing the claimant from service effective with completion of her hour of duty, August 11.

The Organization contended that dismissal was too harsh a penalty, in view of the surrounding circumstances, and filed the claim which is now before the Board.

In handling the dispute on the property the Carrier referred to Miss Ullom's past record which shows six instances of discipline during the last seven years of her employment, five of these being for reporting late for work.

While the Board recognizes the merit of the Employees' view that the heavy rain and electrical disturbance should be carefully considered, we are

inclined to the opinion that this factor, being a normal effect of nature, cannot override the claimant's past record of habitual tardiness.

The Carrier did not, under the circumstances, abuse its discretion and accordingly the claim will be denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence finds and holds:

That the parties waived oral hearing;

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
Secretary

Dated in Chicago, Illinois, this 14th day of June 1963.