

Award No. 13669
Docket No. TE-14624

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Harold M. Weston, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY
(Coast Lines)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atchison, Topeka & Santa Fe Railway, that:

1. The Carrier violated the terms of the Agreement between the parties when, on or about November 23, 1962, it dismissed Telegrapher-Clerk Nelson E. Padgett from service.

2. Carrier shall now reinstate Mr. Padgett to its service with all rights unimpaired and his record cleared of the charges placed against him as a result of formal investigation conducted against him on November 17, 1962.

3. Mr. Padgett shall be compensated for a day's pay at the prevailing minimum Telephoner-Clerk rate applicable on the division beginning November 23, 1962 forward.

OPINION OF BOARD: Claimant, who had established seniority as telegrapher on April 13, 1961, was dismissed from service on November 23, 1962, for having used Carrier's telephone to make long distance calls of a personal nature without paying for them.

The record leaves no doubt but that during September, 1962, while working as relief telegrapher, Claimant made toll calls on three occasions, charged them to Carrier and made no effort to reimburse Carrier in the meantime. We are unimpressed by Petitioner's procedural objections since there appears to be no real dispute regarding the basic facts. In our opinion, Claimant was afforded a fair hearing prior to his dismissal.

There is at least some question, however, as to whether Claimant was not being careless rather than dishonest in the matter of the telephone calls. In view of that fact and his relative youth and inexperience, we believe that the discipline meted out was too severe. A lengthy suspension, amounting

to over 2½ years, would seem to be ample disciplinary action and should have appreciable deterrent value.

We will direct that Claimant be reinstated to his former position with seniority rights unimpaired but without back pay or compensation of any kind for the period he will have been withheld from service (i.e., from November 23, 1962, to date of reinstatement).

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 Employees involved in this dispute are respectively Carrier and Employees 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

Claimant should be reinstated with seniority rights unimpaired but without back pay.

AWARD

Claim sustained to the extent indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of June 1965.