

Award No. 15015

Docket No. CL-16024

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

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

**THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5857) that:

(a) Carrier violated the Agreement at Chattanooga, Tennessee, when Miss Myrna E. Kerr, former Clerk-Stenographer, was notified while on vacation, that effective this date, August 5, 1964, she was removed from her assignment.

(b) Miss Kerr shall now be restored to her position of Clerk-Stenographer with all rights unimpaired.

(c) Miss Kerr shall now be properly compensated for the period beginning August 17, 1964, and continuing until she is restored to her position.

OPINION OF BOARD: Rule 40 of the Agreement reads:

(a) Employees will not be discharged or disciplined except for cause. If request is made therefor within five days, an investigation shall be held. Investigation will be made by the proper officer within five days after date of request, if possible, and in their presence. They will have the privilege of bringing to such investigation one or more employees of their own selection to act as representatives, provided such employees are in good standing on their seniority district. Pending investigation employees may be relieved from service . . . "

Claimant was discharged on August 5, 1964. She filed claim for reinstatement and loss of wages. She failed to make request for investigation as provided for in Rule 40(a); and, she rejected an offer from Carrier to conduct an investigation. Therefore she failed to handle the claim in the "usual manner" on the property which is an indispensable condition precedent to invoking this Board's jurisdiction (RLA Sec. 3, First (i)). We will, therefore, dismiss the claim.

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 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.

AWARD

That the Claim must be dismissed because of failure to handle in the usual manner on the property.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 8th day of December, 1966.