Award No. 15978
Docket No. CL-16142

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5916) that:

(a) The Carrier violated the Agreement at Spencer, North Carolina, when Mr. H. B. Dedmond, Jr., Train Clerk, Spencer Yard Office, N. C., was dismissed from the service of the Carrier.

(b) Mr. Dedmond shall be compensated for fourteen (14) days' pay at the proper pro rata rate and one (1) day's pay at the time and one-half rate, which totals $333.96, the amount of compensation lost while unjustly dismissed from the Carrier's service.

OPINION OF BOARD: Mr. H. B. Dedmond, Jr., a Train Clerk at Spencer Yard, Spencer, North Carolina, was dismissed from service after an investigation held on Wednesday, November 6, 1963, for improperly handling a freight car. He was disciplined for allowing loaded car ACL-52308, destined for Philadelphia, to be forwarded on Train 55–West to Asheville, North Carolina, as an empty car. This error resulted in a delay in the arrival of the freight car at Philadelphia. Mr. Dedmond was out of service for fifteen days and then was reinstated on a leniency basis effective December 3, 1963.

Brotherhood in his behalf claims that the discipline imposed by Carrier was capricious, arbitrary, and unreasonable, and that he should be compensated for the fifteen days while he was unjustifiably released from service. It takes the position that the type of error Mr. Dedmond made is common in the railroad industry and the punishment was too severe for this clerical mistake. Furthermore, it points out that at least two switch crews handled the car previously, lined it up in Train 55–West, and thus, no doubt, initiated the error.

The record supports the charge against Claimant. In fact, he admits his mistake. That others may have initiated the error does not make him blameless. There is no showing that Carrier acted arbitrarily or exercised capricious judgment in imposing the discipline of dismissal fom service for

fifteen days. Under these circumstances, we find it unnecessary to disturb Carrier's disciplinary action.

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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1967.

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