

Award No. 16072
Docket No. CL-16870

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

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

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6196) that:

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, except as amended, particularly the Discipline Rules 6-A-1 to 7-A-1, when it held Mr. William Hardy, Jr., Group 2 Extra List employe at Rose Lake Yard, East St. Louis, Illinois, Southwestern Division, out of service commencing November 5, 1965, and subsequently imposed discipline of dismissal from service.

(b) William Hardy, Jr. should be restored to service with seniority and all rights unimpaired and his record cleared.

(c) William Hardy, Jr. should be reimbursed for all wage loss sustained as a result of the Carrier's action. (Docket 1913.)

OPINION OF BOARD: The Board finds no proper basis for the contention that the charge against Claimant was not sustained. However, in the light of the evidence of record the discipline assessed was too severe. Considering that Claimant had more than twenty years' service, with no prior showing of discipline, and considering the gravity of the offense, the imposition of the extreme penalty of dismissal from service was too severe and an abuse of discretion. Accordingly, we find that Claimant should be restored to service with seniority and other rights unimpaired but without compensation for wages lost.

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 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 claim should be disposed of in accordance with the Opinion.

AWARD

Claim disposed of in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of January 1968.