

Award No. 16094
Docket No. CL-16383

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6014) that:

(1) The Carrier has violated and continues to violate the rules of the Clerks' Agreement, effective December 1, 1956, as amended, when on October 1, 1965, it dismissed Chief Clerk S. R. Brown, Jr., Millen, Georgia Freight Agency from its service based on charges unproved and in violation of procedural rights, and that, therefore

(2) The Carrier shall now be required to restore Chief Clerk S. R. Brown, Jr. to service with seniority and all other rights unimpaired and allow compensation for all wage loss from October 1, 1965, the date he was dismissed from service, and continuing thereafter until he is so restored to service with all rights unimpaired, and

(3) In addition to the above, Chief Clerk S. R. Brown, Jr. shall now be paid for thirty (30) days accumulated sick leave which was due him at the time he became ill in August, 1964; and that

(4) Chief Clerk S. R. Brown, Jr. be paid for three (3) weeks or fifteen (15) days' vacation which he had earned in 1963 and which he was due in 1964.

OPINION OF BOARD: After the discovery of a shortage in accounts at the Millen, Georgia Freight Agency, charges were preferred against Chief Clerk S. R. Brown, Jr. on August 3, 1964. He was suspended on August 7, 1964, and an investigation was scheduled for August 9, 1964. Because of the illness of Mr. Brown, the investigation was postponed until September 24, 1965. Following the hearing, Mr. Brown was notified that he was responsible for the shortage, as charged, and was advised of his dismissal from service on October 1, 1965.

Mr. Brown claims that his dismissal from service was made on unproved charges, and asks for restoration to service with compensation for wage loss and payment for sick leave which he alleges was due him when he became ill in August, 1964. In addition, he claims three weeks' vacation which he states he had earned in 1963.

We find that the hearing was conducted in a fair and proper manner. Claimant was represented and was given an opportunity to confront witnesses and to testify in his own behalf. In his testimony, Mr. Brown could not explain the shortages and improper handling of accounts. The record indicates that he knew that a member of his family made restitution to Carrier of \$360.23.

In its rejection of the claim for sick leave and vacation, Carrier asserts that Claimant did not make a proper claim. It points out that the General Chairman requested information about sick leave and vacation, but this request was not a claim in accordance with Rule 25. We construe the letter of January 9, 1965 signed by the General Chairman as valid claims for accumulated sick leave and vacation pay earned in 1964 for services performed in 1963. However, the letter written by Carrier's Superintendent, dated April 7, 1965, in which he declined the claims for sick leave and vacation pay, is not within the time limit provision because it was a response beyond 60 days.

For the reasons stated, we hold that Claimant Brown was dismissed from service on proved charges as the result of a fair and impartial investigation. Accordingly, claims in paragraphs 1 and 2 of the Statement of Claim are denied.

Since Carrier failed to respond to the claims for sick leave and vacation within the proper time, Claimant is allowed payment for twelve days accumulated sick leave, inasmuch as he already received payment for eighteen days' accumulated sick leave, and he is also allowed payment for fifteen days' vacation earned in 1963.

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; and

Claim sustained in part and denied in part in accordance with Opinion.

AWARD

Claim sustained in part and denied in part in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 15th day of February 1968.

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