

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6360) that:

(a) Carrier violated the Agreement at Atlanta, Georgia, when it dismissed Scale Clerk Mr. J. F. Whitehead, Jr., from the service of the Carrier beginning April 10, 1965, through July 15, 1965, for alleged responsibility in running overloaded car from Inman Yard, Atlanta, Georgia, on April 6, 1965.

(b) Mr. Whitehead shall be compensated at the regular rate of the position he held, for all time lost, including holiday pay and all overtime he would have been entitled to beginning April 10, 1965, through July 15, 1965, inclusive.

OPINION OF BOARD: This is a discipline case, wherein Claimant was charged with negligence in permitting an overloaded car to proceed without notifying the Terminal Trainmaster. The end result was a derailment.

Carrier dismissed Claimant from the service, but eventually restored him to duty without pay for the intervening period and seniority unimpaired. He was originally dismissed on April 10, 1965 and was restored on July 15, 1965. It is for this period of time that the claim has been submitted.

Claimant requested and was granted a hearing. We have examined the record of this hearing, and find that the evidence is substantial that Claimant was guilty as charged. It was conducted in an eminently fair and impartial manner, and we are accordingly unable to subscribe to the theory that Carrier's action amounted to an abuse of discretion or to capriciousness. We will deny 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 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 25th day of March 1969.