



Award Number 17914

Docket Number CL-18382

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

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

KENTUCKY & INDIANA TERMINAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6637) that:

1. The Carrier violated the Clerks' Agreement when on March 11, 1968 it summarily dismissed Clarence C. Wesley, Louisville, Kentucky from Service.
2. Janitor Clarence C. Wesley shall now be reinstated to the service of the Carrier with seniority and all other rights unimpaired.
3. Janitor Clarence C. Wesley shall now be compensated for all wages and other losses sustained account this summary dismissal.
4. Janitor Clarence C. Wesley's record shall be cleared of all alleged charges or allegations which are not proven and may have been recorded thereon as the result of the alleged notation named herein.

OPINION OF BOARD: Upon consideration of the testimony presented, exhibits introduced and the Agreement between the Kentucky & Indiana Terminal Railroad Company and Its Clerical and Other Employees it is determined that the Carrier did not violate the Clerks' Agreement when on March 11, 1968 it dismissed Clarence C. Wesley, Louisville, Kentucky from service.

The precedent is well established that this Board should not substitute its judgment for that of the Carrier in discipline cases where it has produced substantial evidence that the offense charged was committed. While the administration of disciplinary action should not seem haphazard or capricious, it is clear that the imposition of discipline is within managerial discretion.

The record is conclusive that Claimant was guilty of conduct that simply cannot be condoned. We have no alternative but to deny the claim.

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 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

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of May 1970.