

**Award No. 18426**  
**Docket No. CL-18950**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Robert A. Franden, Referee**

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**PARTIES TO DISPUTE:**

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

**KANSAS CITY TERMINAL RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6842) that:

(1) The Carrier violated the Agreements between the parties when on September 22, 1969, it dismissed furloughed Gateman-Usher Hugo Lanning by removal of his name from the Class 2 and Usher Seniority Rosters in the Passenger Department, without benefit of an investigation as provided in the controlling rules.

(2) The Carrier shall now be required to reinstate Claimant's seniority and compensate him for any wage loss he may suffer in the future as a result of deprivation of his seniority.

**OPINION OF BOARD:** Claimant was employed by the Carrier as a Gate-man in the Passenger Department on July 2, 1966 and established seniority as of that date under the Clerks' Agreement of October 1, 1942, reprinted and revised as of June 1, 1961 and under the Usher's Agreement of April 5, 1939. In February, Claimant was placed on furloughed status. On June 16, 1969 Claimant was employed as a Track Laborer and worked under the Agreement between the Carrier and the Maintenance of Way Organization. While Claimant worked as a Track Laborer he maintained his seniority rights under the Clerks' Agreement.

On September 16, 1969 Claimant was cited for violation of company rules in that he failed to report for work on several days in the months of September. Claimant was notified to report for investigation on September 22, 1969. Claimant did not appear for the investigation and he was dismissed from service.

Concurrent with the dismissal Claimant's name was dropped by the Carrier from the Clerks' rosters. Claimant asserts that because he retained his seniority under the Clerks' Agreements he is entitled to the protection of the discipline provisions (Rule 19 of the Clerks' Agreement and Rule 14 of the Ushers Agreement) before he can be removed from the Clerks' roster.

The right of the Claimant to exercise his seniority rights under any agreement depends on there being in existence an employee-employer relationship between Claimant and the Carrier. A procedurally correct and substantively well based dismissal of Claimant effectively severed that relationship. A condition precedent to the right to invoke the discipline rules of the Clerks' Agreements was extinguished with said dismissal.

**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.

#### **AWARD**

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of **THIRD DIVISION**

ATTEST: E. A. Killeen  
Executive Secretary

Dated at Chicago, Illinois, this 12th day of March 1971.