

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William M. Edgett, Referee

PARTIES TO DISPUTE:

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

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY — Coast Lines —**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6976) that:

(a) Carrier violated the rules of the current Clerks' Agreement at Los Angeles commencing on or about January 3, 1969, when it wrongfully discharged Mrs. Dora V. Santos from service; and,

(b) Mrs. Dora V. Santos shall now be reinstated and compensated for eight (8) hours pay for each work day commencing January 3, 1969 and continuing until such time as she is reinstated, because of such violation of Agreement rules.

(c) The Carrier shall be required to pay 6% interest compounded daily on all wages wrongfully withheld from Mrs. Santos commencing January 3, 1969.

OPINION OF BOARD: Claimant, an employe with over twenty-four years of service, was dismissed after a short lived, but intense, verbal exchange with her supervisor. The details of the dispute need not be related here. It suffices to say that the offense alleged and proven was insubordination.

The Board has sustained dismissal for insubordination.

In Award No. 8431 (Daugherty) the Board stated principles which it has used in reviewing discipline cases. Two of them, with particular relevance to this case are reproduced below:

"(3) A Carrier's disciplinary decisions is unreasonable, arbitrary, capricious, or discriminatory when * * * (j) the degree of discipline imposed was not reasonably related to the seriousness of the proven offense * * *

(8) If for any of the proper reasons stated above under (3) Carrier's disciplinary action is deemed not supportable but if at the same time the record of the case shows that in the circumstances

directly leading up to the Carrier's action the employe himself was not free of improper behavior, the employe may be required to suffer some penalty such as no pay for time lost, upon reinstatement."

Applying those principles, the Board finds that Claimant should be reinstated, but without pay for time 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 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 violated as discussed in Opinion.

AWARD

Part (a) of the claim is sustained, Parts (b) and (c) are denied. Carrier is to reinstate Claimant, but without pay time lost.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 28th day of April 1972.