

Award No. 19161
Docket No. CL-19481

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 EMPLOYEES**

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7018) that:

(1) Carrier violated the terms of the Agreements between the parties at Springfield, Missouri when it arbitrarily, capriciously and discriminately dismissed from its service Diesel Clerk Van H. Elting on February 17, 1971 without proper justification.

(2) Carrier shall now return to its service Mr. Van H. Elting with pay for all time lost and with all other rights unimpaired, to also include any expenditures made by claimant for adequate insurance coverage for himself and his family, plus eight percent (8%) interest on all losses sustained due to the action of the Carrier to include all wage increases.

(3) Carrier shall compensate Mr. Elting for a day's pay on each and every work day at the established rate of pay of his position of Diesel Clerk to include all subsequent wage increases and other benefits, beginning February 17, 1971 as reflected by the Carrier's payroll and other records, including any overtime to which he may have been entitled to work had he not been dismissed from service.

OPINION OF BOARD: Claimant was dismissed from Carrier's service after an investigation in which he admitted that he left his position uncovered on several occasions. The Board has held in a number of cases that unless Carrier is shown to have acted in an arbitrarily, capricious or discriminatory manner, amounting to an abuse of discretion, its action will not be disturbed by the Board. In applying that principle the Board has also held that the degree of discipline must be reasonably related to the proven offense.

While an employee is responsible for covering his position, and failure to do so may justifiably result in discipline, including discharge, the Board holds, based on the entire record in this case, including the facts offered in mitigation, that the penalty of discharge was not reasonably related to the proven offense.

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 the Opinion.

AWARD

Claim sustained as to Part (1), Claim denied as to Parts (2) and (3). Carrier shall return Claimant to its service without pay for 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.