

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19216
Docket Number MS-19480

William M. Edgett, Referee

PARTIES TO DISPUTE: (Mrs. Adelaide Lohrke
(
(Southern Pacific Transportation Company
(Texas and Louisiana Lines

STATEMENT OF CLAIM: Request of Mrs. A. Delery (Mrs. E. S. Lohrke) for removal of sixty (60) demerits assessed her discipline record, September 26, 1970, for alleged responsibility for allegedly entering into an altercation while on duty at Avondale, Louisiana Yard Office, Wednesday, September 16, 1970, while employed as General Yardmaster' Steno-Clerk, and claim for pay for time lost attending investigation September 22 and 23, 1970.

The Carrier has declined this claim.

OPINION OF BOARD: Claimant, along with other employees, entered into a dispute during working hours. She contends that the investigation of the charge, of entering into an altercation, against her was not fair and that there was insufficient evidence to support Carrier's decision to assess discipline.

This Board has held many times that it will not disturb Carrier's disciplinary decision where it is supported by substantial evidence with probative value and hence is not arbitrary or capricious. After a careful review of the record the Board has seen no evidence to support Claimant's assertion that Carrier did not conduct a fair or impartial investigation or that the finding was not based upon substantial evidence.

The claim for time lost while attending the investigation has become moot, since the record shows that Carrier has made payment for that period.

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 Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

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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:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May 1972.