

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19787
Docket Number CL-20010

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(The Western Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7178) that:

1. The Carrier violated the rules of the Agreement extant between the parties when it dismissed Miss L. Creelman from service of the Company.
2. Miss Creelman shall be reinstated to service and compensated for all wages and other rights suffered as result of her dismissal.

OPINION OF BOARD: Claimant, an employee with less than one year of service with the Carrier, was charged with numerous absences, tardiness and early departures during a nineteen (19) day period in the Summer of 1971. Subsequent to formal investigation, Claimant was terminated. She seeks reversal of the disciplinary action and compensation for wages lost while out of service.

An examination of the entire record in the case demonstrates that Claimant was afforded a fair and impartial investigation as required by the rules.

The Carrier's decision that Claimant was guilty of the offenses charged was based on substantial evidence. In a nineteen (19) day period between July 17 and August 4, 1971, Claimant was either tardy, left early, or absent for an entire day on twelve (12) occasions. The tardiness involved periods from fifteen (15) minutes to two (2) hours and thirty (30) minutes. Early departures involved periods as long as three (3) hours and forty (40) minutes. The record demonstrates that Claimant was warned that her absences, tardiness and early departures without permission would not be tolerated.

Claimant stressed, at the investigation, that the Carrier maintained a very poor air conditioning system at her place of work. However, it did not appear, from a review of the record, that her absences resulted from her physical condition. Under the circumstances, we hold that there is substantial evidence of probative value to support Carrier's finding of Claimant's guilt, and under the circumstances, the Carrier did not abuse its discretion by terminating Claimant's service.

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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;

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. G. Killen
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May, 1973.