

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19843  
Docket Number CL-19513

Alfred H. Brent, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,  
(Freight Handlers, Express and Station Employees  
(  
(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7001)  
that:

1) Carrier's action in dismissing F. A. Herner from service  
in connection with the charges preferred against him was capricious, arbitrary  
and without just cause.

2) Carrier shall now be required to clear employe Herner's record  
of the charge and compensate him for all losses sustained.

OPINION OF BOARD: The claimant, Mr. F. A. Herner, was charged by the Carrier  
for misrepresenting facts relative to absenting himself from duty; for falsely  
~~claiming~~ sick leave payment for the day he absented himself from service and  
for presenting a fraudulent Doctor's Certificate in support of his sickness  
on the date in question.

Following a formal investigation of the claimant, the Carrier  
found him guilty of the charges and therefore dismissed him from service  
effective May 5, 1970. He was subsequently reinstated to service by the  
Carrier on a leniency basis, effective May 25, 1970. The Claimant's claim  
before this Board is that the Carrier shall now be required to clear his record  
of the charges and compensate him for the thirteen (13) days he was out of  
service.

The record in this case contains sufficient evidence which con-  
clusively indicates that the Claimant was guilty as charged. Accordingly,  
this Board will not substitute its judgment for that of the Carrier and will  
deny the claim.

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

The Agreement was not violated.

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The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A.W. Paulsen  
Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1973.