

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20475  
Docket Number CL-20504

Joseph A. Sickles, Referee

(Brotherhood of Railway, Airline and Steamship  
( Clerks, Freight Handlers, Express and  
( Station Employees

PARTIES TO DISPUTE: (

(George P. Baker, Richard C. Bond, and Jervis Langdon,  
( Jr., Trustees of the Property of  
( Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7431) that:

(a) The Carrier violated the Rules Agreement, effective February 1, 1968, particularly Rule 6-A-1, when it assessed discipline of 60 days suspension on J. H. Hamilton, third trick Crew Dispatcher at Washington, D. C., Chesapeake Division, Eastern Region.

(b) Claimant J. H. Hamilton's record be cleared of the charges brought against him on or about July 9, 1972.

(c) Claimant J. H. Hamilton be compensated for wage loss sustained during the period out of service.

OPINION OF BOARD: Claimant was advised to attend an investigation concerning an allegation that he left his assignment without being properly relieved. Subsequent to the investigation, he was suspended for sixty (60) days. As a matter of leniency, the final thirty-four (34) days of the suspension were deferred under a probationary condition.

Initially, Claimant urges that the investigation was neither fair nor impartial for a number of reasons. We have fully considered the transcript of the investigation and the record in its totality. The Board, with this Referee participating, requires a showing that a Claimant's rights are fully protected. However, our examination of the entire record in this case demonstrates that Claimant was afforded a fair and impartial investigation, as required by the rules.

The record supports the conclusion that Claimant did leave his assignment prior to being relieved. In this regard, the Carrier notes that Claimant's position of third trick dispatcher is one of three dispatcher positions which comprise a continuous operation. The dispatcher has prime responsibility for crew calling, and the position may not be vacant.

Claimant's stated reason for leaving his assignment, prior to being relieved, was because he was "tired." Prior Awards of this Board have considered valid reasons for departing an assignment prior to being relieved (see, for example, Award 16744), but they have not condoned a departure in this type of a circumstance.

The Board is unable to state that Carrier's action was arbitrary, capricious or unsupported by the record.

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 not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois this 25th day of October 1974.