

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20589  
Docket Number CL-20718

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship  
( Clerks, Freight Handlers, Express and  
( Station Employees  
(  
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-7617) that:

1. Carrier violated the applicable rules of the effective Agreement when it dismissed Mrs. M. J. Gant from service on August 17, 1971.

2. Carrier shall immediately restore Mrs. M. J. Gant to service and compensate her for all time lost at her regular rate of pay as a result of being taken out of service on July 26, 1971, and that payments be made in her behalf to the Travelers Insurance Company for all benefits prescribed in Travelers Group Policy Contract 23000, as amended.

OPINION OF BOARD: Claimant was charged with being under the influence of alcoholic beverages while on duty. Subsequent to investigation she was dismissed from service of Carrier.

There was considerable conflicting testimony concerning the charge. We do note, however, a propensity on the part of the Hearing Officer to inquire into Claimant's prior drinking habits.

The Hearing Officer seemed to dwell upon Claimant's prior "alleged problems." Moreover, he was not the Officer who imposed the discipline. While we feel that there was a substantive showing of evidence to suggest that Claimant was under the influence of alcoholic beverages while on duty, we feel that the record also was quite detrimental to Claimant, to the point that an objective review of Claimant's indiscretion was obscured by the Hearing Officer's insistence that prior "alleged" indiscretions should be considered.

We concur that Claimant was under the influence of alcoholic beverages on the day in question, but we feel that the Hearing Officer's activities clouded a clear determination of the quantum of discipline. Accordingly, Claimant shall be restored to duty, with seniority and other rights unimpaired, but without payment for lost compensation.

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.

A W A R D

Claim sustained to the extent stated in the Opinion of Board.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Paulson  
Executive Secretary

Dated at Chicago, Illinois, this 17th day of January 1975.

CARRIER MEMBERS' DISSENT TO AWARD 20589, DOCKET CL-20718

(Referee Sickles)

In view of the seriousness of the offense committed by the Claimant, we dissent to that portion of the award which restores Claimant to Carrier's service.

A J Taylor

H A M B - ...

G M ...

P L ...

W F ...