

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20774
Docket Number CL-20648

Joseph A. Sickles, Referee

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

PARTIES TO DISPUTE: (

(Reading Company
(Andrew L. Lewis, Jr., Trustee

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-7512, that:

(a) The Carrier violated that Agreement when on May 31, 1973 it improperly removed Edward Schneider from service without notice or hearing.

(b) The Carrier be required to restore Edward Schneider to service with full rights unimpaired and that he be paid for all time lost retroactive to May 31, 1973.

OPINION OF BOARD: Claimant contests Carrier's action of removing him from service because he did not receive a hearing and investigation, as required in discipline cases. Carrier has continued to deny that any question of discipline is involved, and therefore no hearing was required.

Our review of the entire record demonstrates that Claimant had a long history of medical problems which were well known (and documented) by the parties. Some rather severe medical considerations (including threats of physical violence) motivated the removal here under review.

Claimants assume a burden of proof when they present claims to this Board. Under this record, we are unable to find that there is any indication that Carrier violated its obligations under the Agreement when it removed Claimant from service. We cannot find that Carrier discharged Claimant or terminated his employment status; nor is there any valid suggestion of subterfuge to avoid obligations.

We will dismiss the claim (See Awards 19983 and 20344).

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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 18th day of July 1975.