

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20987  
Docket Number CL-21225

Joseph A. Sickles, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station Employees  
(  
(Florida East Coast Railway Company

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood  
(GL-7939) that:

(1) Carrier acted arbitrarily, capriciously and in a harsh and discriminatory manner when it dismissed from its service, Clerk E. C. Paulson.

(2) That E. C. Paulson shall be reinstated with seniority and all rights unimpaired and reimbursed at the rate of his position, including subsequent wage increases applicable to his position each day that he is suspended from service.

(3) Carrier shall pay Clerk E. C. Paulson eight and one-half percent on the amount remaining unpaid from time to time as a result of wrong dismissal from service.

OPINION OF BOARD:

Claimant was notified, on November 26, 1974, to report for investigation for habitually reporting late for his assignment. Subsequent to investigation, Claimant was assessed twenty (20) demerits. On December 4, 1974, Claimant was charged with having accumulated "ninety (90) or more" demerits, and was instructed to report for investigation on said charge.

On December 6, 1974, Claimant was removed from service.

The record establishes that Claimant did accumulate in excess of ninety (90) demerits, and was subject to removal from service under the provisions of "Circular No. 1."

The demerit system of discipline has existed on this property for a number of years, and this Board, as well as Public Law Boards, has upheld disciplinary action imposed under that system. See, among others, Award 10877 and First Division Award 20526.

We do not minimize the serious obligations of employees to assure that they report promptly for their duty assignments. Habitual tardiness may very well result in a justified termination of employment. However, our thorough review of the entire record in this dispute leads us to conclude that a termination was not warranted, and that its imposition was

arbitrary. We will restore Claimant to service, with seniority and other rights unimpaired, but without reimbursement for compensation lost.

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 the Board, above.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

*A.W. Paulson*  
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1976.