

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21457
Docket Number CL-21562

David C. Randles, Referee

PARTIES TO DISPUTE:

{ Brotherhood of Railway, Airline and
Steamship Clerks, Freight Handlers,
Express and Station Employees
{ Robert W. Blanchette, Richard C. Bond
and John H. McArthur, Trustees of the
Property of Penn Central Transportation
Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-8051, that:

(a) The Carrier violated the Rules Agreements, effective February 1, 1968, particularly Rule 6-A-1, when it assessed discipline of dismissal on Barbara Thomas, Clerk, System General Office, Philadelphia, Pennsylvania.

(b) Claimant Barbara Thomas' record be cleared of the charges brought against her on July 18, 1974.

(c) Claimant Barbara Thomas be restored to service with seniority and all other rights unimpaired, and be compensated for wage loss sustained during the period out of service, plus interest at six percent (6%) per annum compounded daily. Claimant also to be made whole for any money she was required to spend for medical and hospital services, or other benefit which would otherwise have been covered under Travelers Group Policy GA-23000.

OPINION OF BOARD: The Claimant, who entered the Carrier's service on May 15, 1972 as a clerk in the office of Systems Development, Philadelphia, was charged and found guilty of insubordinate conduct on July 18, 1974. The charge of misconduct involved Claimant's alleged refusal to comply with orders from a supervisor and her refusal was grounded upon the apparent belief that she was not required to perform the work as part of her normal duties on the date in question. It was stated in Award 20030 (Eischen), that

"It is a recognized principle of arbitral law, and especially by this Board, that the duty of an employe is to obey a reasonable order; and if he disagrees with such orders to seek redress through the grievance machinery of the agreement."

However, there are sufficient mitigating circumstances present in this record to justify the conclusion that Claimant's refusal partially resulted from an unfortunate misunderstanding. Under the particular circumstances, we feel Claimant should be restored to service without compensation for time 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 Employes involved in this dispute are respectively Carrier and Employes 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 Discipline was excessive.

A W A R D

Claim sustained to the extent provided in this Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 18th day of March 1977.

