

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21459
Docket Number CL-21629

David C. Randles, Referee

PARTIES TO DISPUTE:

{ Brotherhood of Railway, Airline and
{ Steamship Clerks, Freight Handlers,
{ Express and Station Employees
{
{ Consolidated Rail Corporation
{ (former Lehigh Valley Railroad Company)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8093) that:

(a) Carrier's action in assessing Scrap Cutter George W. Johnson with discipline to the extent of 45 demerits as a consequence of an alleged "hearing and investigation" at 10:00 A.M. and an additional 15 demerits as a consequence of a second alleged "hearing and investigation" at 1:00 P.M., both on the date of October 15, 1974, should be voided because Carrier failed to prefer a "precise charge" in the Notices scheduling the aforesaid proceedings.

(b) Carrier's action in dismissing former Scrap Cutter George W. Johnson effective at the end of a tour of duty on October 22, 1974, because the assessment of the aforesaid total of 60 demerits resulted in an accumulation of more than 90 demerits on his record, was arbitrary, capricious and an abuse of authority.

(c) Carrier now be required to clear Mr. Johnson's record of the here disputed 60 demerits, reinstate him to its service with seniority and all other employment rights unimpaired, and compensate him at the pro rata Scrap Cutter's rate of pay for each working day subsequent to October 22, 1974 and until the effective date of his reinstatement.

OPINION OF BOARD: The issue in this case is, for all intents and purposes, the same as that considered in Award 21458 with the additional factor that the 60 demerits assessed herein when added to the 60 demerits previously assessed, totaled more than 90 demerits, which resulted in Claimant's discharge.

It is apparent from a thorough review of the record presented herein, Claimant simply did not desire to work for this Carrier, except at his own convenience. The totality of his conduct since his employment unmistakably reflects this attitude.

Under these circumstances, we are satisfied that Carrier's action in assessing discipline of discharge was warranted and we will not disturb it.

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:

A. W. Paulsen
Executive Secretary

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

