

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21589  
Docket Number CL-21398

Joseph A. Sickles, Referee

PARTIES TO DISPUTE:

{ Brotherhood of Railway, Airline and  
Steamship Clerks, Freight Handlers,  
Express and Station Employees  
{ Southern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood, GL-7950, that:

(a) Carrier violated the Clerks' Agreement at Knoxville, Tennessee when it unjustly dismissed Mr. James L. Johnson, Crew Dispatcher, from the service of the Carrier effective March 22, 1974 for allegedly failing to properly perform his duties.

(b) Carrier shall be required to compensate Mr. James L. Johnson at the Crew Dispatchers rate beginning March 22, 1974 through August 3, 1974 when he was restored to service on a leniency basis.

OPINION OF BOARD: On March 22, 1974, Claimant was dismissed from service for calling employees to deadhead before the employees had received proper rest.

The record shows that Claimant was directed to call a crew to deadhead at 6:45 p.m., March 20, 1974. In doing so, Claimant neglected to note that members of the crew he called were not legal to operate until 7:18 p.m. and 7:25 p.m. The crew accepted the call without complaint or protest until a later time, although there is evidence that on other occasions when crews were called before their rest was up, they so advised of that fact.

The Claimant conceded, at the investigation, that he called a crew without proper rest. The record also shows that Claimant's prior work history does not operate to his benefit. However, the Carrier's action of restoring Claimant to service, on August 3, 1974, on a leniency basis, makes it unnecessary for us to consider if the disciplinary action was excessive.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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:

G. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 17th day of June 1977.