

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21749
Docket Number CL-20971

Lloyd H. Bailer, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
PARTIES TO DISPUTE: (
(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-7730) that:

(a) The Carrier violated the Rules Agreement, effective February 1, 1968, particularly Rule 6-A-1, when it assessed discipline of 15 days suspension on Claimant D. L. Sims, Ticket Clerk at the Carrier's Passenger Station, 30th Street, Philadelphia, Pennsylvania.

(b) Claimant D. L. Sims' record be cleared of the charges brought against him on June 14, 1973.

(c) Claimant D. L. Sims be compensated for wage loss sustained during the period out of service.

OPINION OF BOARD: Claimant D. L. Sims was assessed fifteen days' suspension under these circumstances: At approximately 10:00 PM on Wednesday, June 13, 1973, while working his regular second trick Ticket Clerk assignment at Carrier's 30th Street Station, Philadelphia, Pennsylvania, he overheard two supervisors discussing the fact that a 6:00 AM position would have to be blanked on June 14. Despite the fact that he was scheduled to be on duty until 12:30 AM that date, claimant said he would be willing to fill this vacancy. Ticket Supervisor S. J. Woods responded that under the circumstances, claimant would be working the entire day. Claimant replied he understood this but would take the job, and he was so assigned. At approximately 5:45 AM on June 14, however, claimant reported he would be unable to cover this 6:00 AM overtime assignment but would cover his regular second trick position that afternoon. Claimant thereafter received written instructions to appear for investigation in connection with the charge of failing to cover the subject position after accepting it, by reporting off a few minutes prior to its starting time.

Claimant's rights were not prejudiced by the investigation. The evidence supports the finding of guilt. Between his service entry

date of February 25, 1970 and April 1973 claimant had been disciplined on five occasions for excessive absenteeism and tardiness. The discipline imposed in this instance was not unreasonable, arbitrary, capricious or in bad faith. A denial award is warranted.

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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 14th day of October 1977.