

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22370
Docket Number CL-22458

George S. Roukis, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(Northwestern Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8544) that:

1. The Northwestern Pacific Railroad Company violated the Clerks' Agreement extant when it dismissed employe C. M. Barker from service on July 21, 1976, and,

2. The Northwestern Pacific Railroad Company shall now be required to restore Mr. Barker to service with seniority unimpaired, full insurance benefits, hospitalization, all fringe benefits to which he is entitled; and to allow compensation for eight (8) hours at the rate of his position each work day beginning July 14, 1976, and continuing each such day thereafter until restored to service with all emoluments above set forth.

OPINION OF BOARD: Claimant was discharged for insubordination following an investigative hearing held on July 20, 1976. He was later reinstated on March 18, 1977, but denied compensation for time lost during the discharge interval. It is this claim that is presently before us.

Extensive evidence was adduced at the hearing which clearly established that Claimant defied his supervisor's instructions to remain at his post during a time when Claimant had desired to be off to attend a religious conference. The supervisor's instructions were explicit and unambiguous, and Claimant offered no excuse for disobeying them other than that he desired to attend a religious conference.

Our review of the transcript finds no procedural irregularities which might suggest that Claimant wasn't afforded a fair and impartial hearing. On the contrary, Claimant had the opportunity to testify at length and present a comprehensive defense. Moreover,

there is no evidence of prejudgement of claimant's guilt by those Carrier officials involved in both the handling of the case and the investigation.

Accordingly, based upon our thorough appellate examination of the record, we find no basis to alter or disturb the approximately nine (9) month disciplinary suspension Claimant actually served for his insubordinative act. The penalty was neither arbitrary nor excessive when measured against the particular circumstances of this case. We will thus deny the claim.

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. Paulke
Executive Secretary

Dated at Chicago, Illinois, this 30th day of March 1979.

