

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22500  
Docket Number CL-22629

Paul C. Carter, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station Employees  
(  
(The Washington Terminal Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
GL-8610, that:

(a) Carrier violated the rules of the Agreement effective July 1, 1972, particularly Article 18 and others when, effective August 1, 1977, it arbitrarily terminated the employment of Ms. Alfreda Pearce, as a result of improper investigation held on July 26, 1977.

(b) Carrier's action in dismissing Ms. Pearce from service on unproven charges was unjust, unreasonable and an abuse of Carrier's discretion.

(c) Carrier shall now restore Ms. Pearce to active service with her seniority rights unimpaired and permit her to return to her former position or any other position bulletined during her absence that her seniority will entitle her to.

(d) Carrier shall expunge from her record any notation placed thereon, as a result of its improper action and compensate Alfreda Pearce for all time held out of service, including protective agreement payments which would have accrued to her had she remained in service, inclusive of reimbursement for any medical expenses, hospital, surgical or related expenses that Ms. Pearce is required to assume for herself and/or dependents, to the extent that such expenses would have been paid by Travelers Insurance Company had Claimant continued in Carrier's service.

OPINION OF BOARD: The record shows that on four occasions Claimant's superior officer wrote to Claimant instructing her to report to Carrier's Medical Examiner, the last such letter being dated July 13, 1977. All the letters were sent to Claimant's last known address - 1313 Iverson Street, Oxon Hill, Maryland 20021.

As Claimant did not comply with the instructions, on July 19, 1977, a letter was sent to her at her last known address, charging her with insubordination in failing to comply with instructions, and scheduling investigation for July 26, 1977. The letter of charge was sent Certified Mail - Return Receipt Requested. In addition, on July 19, 1977, two of Carrier's Terminal Police Officers went to Claimant's last known address, to deliver a copy of the letter of charge to her. They found the apartment vacant, checked with the rental office, and were advised that claimant "had moved one night last week" and that she (the rental agent) did not know where she had moved to.

Claimant did not appear at the investigation, which was held in her absence; however, a representative of the organization was present. On August 1, 1977, Claimant was dismissed from service.

The Board finds that Carrier made every reasonable effort to contact Claimant and to inform her of the charges against her. Claimant's failure to receive the notice of hearing was not the fault of the Carrier, but her own. The claim will be denied.

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. Pauler*  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1979.