

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22611  
Docket Number CL-22653

Paul C. Carter, Referee

PARTIES TO DISPUTE:

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-8622) that:

Claim No. 1

(a) The Carrier violated the terms of the Clerks' Agreement on/or about Nov. 26, 1975, when they charged Mrs. Delores Matthews with insubordination and resulted in hearing being held in the office of casualty prevention, Central Bldg., Baltimore, Maryland at 9:00 a.m., Wednesday, December 3, 1975.

This hearing resulted in Mrs. Matthews being taken out of service for 60 days actual suspension to being Monday, Dec. 15, 1975 and,

(b) Mrs. Delores E. Matthews should now be compensated for any and all wages lost during this period covered by this B of I and her record cleared of the charges made against her by Mr. M. O. Benson, his letter dated December 12, 1975.

Claim No. 2

(a) The Carrier violated the terms of the Clerks' Agreement when on March 19, 1976 it dismissed Mrs. Delores E. Matthews from service with the Chesapeake and Ohio Railway Company, and

(b) That Mrs. Delores E. Matthews be restored to active service with full seniority and compensated for all wages and wage equivalents lost for the period she is held out of service because of Carrier's wrongful action.

OPINION OF BOARD: Before discussing the merits of the claims, we must dispose of the contention of the Carrier as to the Organization combining two separate and distinct disputes handled individually on the property in one submission to the Board. There is no proper basis for complaint in this respect. The combining of the claims for presentation to the Board did not expand or alter the claims. The Carrier has in no manner been misled. The Carrier's contention in this respect is denied and the claims will be disposed of on their merits. See recent Awards 22499 and 22480.

The record shows that claimant entered the service of the Carrier on September 12, 1968, and at the time of the occurrences out of which the claims arose, was the occupant of a Steno-Clerk position in the office of Director of Transportation at Baltimore, Maryland.

On November 26, 1975, claimant was charged by the Superintendent Transportation Services with:

".....insubordination in that on Wednesday, November 26, 1975, at approximately 8:35 AM you refused to accept an order by Chief Clerk C. A. Tuck to perform certain stenographic work while working as Steno-Clerk, Position A-31, hours of assignment 8AM to 5:00 PM."

Investigation of the above charge was conducted beginning at 9:00 A.M., December 3, 1975. A copy of the transcript of the investigation has been made a part of the record. The investigation was quite thorough, with eleven witnesses, as well as the claimant, who testified in her own behalf. The claimant was present throughout the investigation and was represented by the Local Chairman and a Member Protective Committee of the Organization.

The Board has carefully reviewed the transcript of the investigation and finds that none of claimant's substantive procedural rights was violated. The investigation was conducted in a fair and impartial manner. There was substantial evidence adduced at the investigation to support the charge. On December 12, 1975, claimant was notified of the discipline imposed, sixty calendar days actual suspension. Claim for wages lost was filed in behalf of claimant

by the Local Chairman of the Organization, and was handled in the usual manner up to and including the highest officer of the carrier designated to handle disputes of this nature. Each appeal was declined.

Based upon our review of the entire record, including the transcript of the investigation and the submissions of the parties, The Board finds no basis for interfering with the discipline imposed. Claim No. 1 is accordingly denied.

At the termination of the sixty days actual suspension, involved in Claim No. 1, claimant returned to work on February 13, 1976. On March 5, 1976, claimant was advised in part by Carrier's Superintendent Transportation Services:

"You are hereby notified to attend a Board of Inquiry in accordance with Rule 27 of the Clerks' Agreement in the 5th Floor conference room, B&O Central Building, at 9:00 AM, Friday, March 12, 1976.

"You are charged with conduct unbecoming an employee and failure to properly perform assigned duties February 20, 1976, March 4, 1976, and March 5, 1976.

..... "

Investigation of this charge was conducted on March 12, 1976, as scheduled. A copy of the transcript of that investigation has also been made a part of the record. Claimant was present throughout the investigation and was represented by three officers of the Organization. Here again the Carrier conducted a thorough investigation, with statements from nine witnesses and that of the claimant who testified in her own behalf. On March 19, 1976, claimant was notified of her dismissal from the service.

The Board has carefully reviewed the entire record involving this dispute, including the transcript of the investigation, the appeal of the claim on the property, and the submissions of the parties. Here again we find that none of claimant's substantive procedural rights was violated. The investigation was conducted in a fair and impartial manner. Without detailing the testimony adduced at the investigation, suffice it to say that there was substantial evidence

to support the charge preferred on March 5, 1976. There is no proper basis for this Board to interfere with the discipline imposed. Therefore, Claim No. 2 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 No. 1 and Claim No. 2 are denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 9th day of November 1979.