

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22617
Docket Number CL-22756

Paul C. Carter, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(Chicago and North Western
(Transportation Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8748) that:

1. Carrier violated the terms of the current agreement, particularly Rule 21, when it dismissed from its service Employee, Mrs. L. R. Hanson, Operator-Clerk at Mankato, Minnesota, and

2. Carrier shall be required to reinstate Mrs. L. R. Hanson with all rights unimpaired, and make her whole for all losses suffered, to include compensation for time lost, as well as all fringe benefits which would have accrued to her employment had she not been dismissed.

OPINION OF BOARD: The record shows that claimant had been in Carrier's service from April 15, 1968, and on January 9, 1978, was assigned to fill vacation vacancy of Position 026 Operator-Clerk at Mankato, Minnesota, with assigned hours 3:30 P.M. to 11:30 P.M. Claimant's first work day on the position was January 12, 1978.

On January 16, 1978, claimant left her assignment at approximately 4:45 P.M. On January 17, 1978, she was directed to report for formal investigation on the following charge:

"Your responsibility for failure to properly protect your assignment, Job 026, Mankato, Minnesota, and your insubordinate act, leaving Company property contrary to instructions and without permission from Company officers, at about 4:45 P.M., January 16, 1978."

Formal investigation was conducted on January 20, 1978, and a copy of the transcript has been made a part of the record. The investigation was conducted in a fair and impartial manner.

The record shows that on January 13, 1978, claimant received a letter from the Agent in charge, advising her of certain deficiencies in her performance on the job. Claimant took exception to the alleged deficiencies and discussed the matter with the Agent, her immediate supervisor, and the Trainmaster. Claimant contended that she left her assignment because of a dispute between her and the Agent, which left her so upset that she could not properly perform her duties.

The Carrier states that Mankato, Minnesota, is a location where the Twin City Division and the Central Division intersect. Therefore, trains originating or terminating at Mankato, or passing through that location, may be under the direction of either of two dispatchers. Claimant contacted the Twin Cities Division dispatcher to determine if he had additional train orders to deliver during her shift. The dispatcher confirmed that he had no further orders, but told claimant to check with the Agent before leaving. Claimant did not check with the Central Division dispatcher, which necessitated the calling of another operator during claimant's assigned hours.

The Agent testified in the investigation that he did not give claimant permission to leave early, but instructed her to return to her assignment as the work force was already short one clerk.

There is no serious dispute that claimant did fail to protect her complete assignment on January 16, 1978, and did leave her assignment without permission of the Agent.

It was the claimant's obligation to comply with the instructions of the Agent as to work to be performed. If she considered that she was being harrassed by the Agent or the Trainmaster, which is not substantiated by the record, her recourse was to handle through the grievance procedure and not resort to self-help by leaving her assignment without proper permission.

Claimant's actions justified rather severe discipline. However, based upon the entire record, the Board is of the opinion that the time claimant has been out of service should constitute sufficient discipline. We will award that claimant be restored to service with seniority and other rights unimpaired, but without pay or other compensation for time lost while out of service.

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 permanent dismissal was excessive.

A W A R D

Claim sustained to the extent indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

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