

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22828
Docket Number CL-22899

Paul C. Carter, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employes
(

PARTIES TO DISPUTE:

(Chicago, Rock Island and Pacific Railroad Company
((William M. Gibbons, Trustee)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8795) that:

(a) The Carrier violated the Clerks' Agreement, particularly Rules 39 and 44 when on June 21, 1977 Clerk Harold Coleman, Chicago, Illinois was dismissed from the service of the Carrier as a direct result of an investigation held in the office of the Carrier, Chicago, Illinois on June 15, 1977.

(b) The Carrier shall reinstate Clerk Coleman with all rights, benefits and privileges unimpaired and his personal record with the Carrier shall be cleared with no reference to the charges brought against him on May 24, 1977 or the discipline resulting therefrom.

(c) The Carrier shall now be required to reinstate Clerk Coleman, with full pay for all time lost at the rate of the Time and Mileage Clerk position, \$1,121.19 per month, the position to which he was assigned at the time of his termination.

OPINION OF BOARD: Claimant was the occupant of position of Time and Mileage Clerk in Carrier's Accounting Office in Chicago, Illinois. On May 24, 1977, he was notified in part:

"You are hereby notified that an investigation will be held at 10:00 AM on Friday, May 27, 1977 in the office of Mr. J. J. Hartman to develop the facts, discover the cause, and determine your responsibility, if any, for your being insubordinate and for uncourteous deportment in violation of General Rule N and Rule 14 of the Accounting Department Office Rules and Regulations. The violation of these rules occurred on May 23, 1977 at 745 S. LaSalle Street, Tenth Floor."

Following postponements, the investigation was conducted on June 15, 1977. On June 21, 1977, claimant was notified of his dismissal from service:

"You are hereby notified that your employment with this company and all seniority rights held by you have been terminated as of June 21, 1977, because of your being insubordinate and for uncourteous deportment on May 23, 1977 in violation of General Rule N and Rule 14 of the Accounting Department Office Rules and Regulations."

Carrier's General Rule N and Rule 14 of the Accounting Department Office Rules and Regulations, read in part:

"(N) Courteous deportment is required of all employees in their dealings with the public, their subordinates and each other.

Employees must not be:

* * *

- (3) Insubordinate
- (4) Quarrelsome or otherwise vicious.

* * *

(14) Courtesy - Employees are urged to be courteous in their dealings with each other and/or those with whom they contact as representatives of the Rock Island. The importance of courtesy and consideration of others in business relations is dictated by the principle that good manners are important anywhere."

A copy of the transcript of the investigation conducted on June 15, 1977, has been made a part of the record. Upon careful review of the transcript we find that none of claimant's substantive procedural rights was violated.

In the investigation there were conflicts between the testimony of claimant and that of his supervisor - the only two who testified. It is well settled that this Board will not attempt to resolve conflicts in testimony, weigh the evidence, or pass upon the credibility of witnesses.

These functions are reserved to the Carrier. There was nothing to preclude the Carrier from relying upon the testimony of claimant's supervisor even though it was not corroborated by another witness.

Based upon the record before the Board, and considering claimant's prior disciplinary record, we do not find Carrier's actions in dismissing claimant from the service to be arbitrary, capricious or in bad faith.

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 Employes involved in this dispute are respectively Carrier and Employes 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. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1980.