

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22835  
Docket Number CL-22934

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station Employees  
(  
(Chicago, Rock Island and Pacific Railroad Company  
( (William M. Gibbons, Trustee)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8852)  
that:

1) That the Carrier as a result of its progressive system of discipline assessed harsh and excessive discipline against Clerk J. L. Cash, Dallas, Texas, when after an investigation in which his record was reviewed, it issued the supreme penalty of dismissal from service of the Carrier effective January 7, 1977.

2) Clerk J. L. Cash shall be reinstated to the service of the Carrier with full pay for all time lost, with seniority, vacation and other rights unimpaired.

OPINION OF BOARD: Claimant, a clerk, has been in carrier's service for about eighteen years. An investigation was held on January 3, 1977, in which his record was reviewed. By a letter dated January 7, 1977, he was dismissed from service. His service record showed that he possessed 80 demerits. The demerit system in effect on carrier's property provides that "Each employee receiving sixty-five demerit marks will be subject to dismissal."

The Board has carefully reviewed the entire record and it reveals that the claimant did, indeed, receive 80 demerits. There is no question about this, nor is there any question about the fact that claimant admits to this. When these demerits were assessed (for three separate accidents while driving a company vehicle), claimant did not protest their being charged against him. It, therefore, goes without saying that carrier, after following the procedures of its published discipline system and after complying with the requirements of investigations and hearings guaranteed by agreement, has a right to assess discipline. In this case, it chose to dismiss the claimant.

Dated at Chicago, Illinois, this 16th day of May 1980.

Executive Secretary

ATTEST:

*W. R. R. R.*

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Claim denied.

A W A R D

That the agreement was not violated.

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

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 the parties waived oral hearing;

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

Much has been said in this proceeding about claimant's long years of service. This Board has stated in numerous decisions that years of service is not a sufficient basis on which to overturn the penalty of discharge, if in fact no other grounds exist. In the record of this case, no extenuating circumstances worthy of consideration by this Board were mentioned. There were some innuendos that the company failed to investigate thoroughly the reasons for claimant's accidents, but this Board cannot be expected to supply its own reasons for such repeated infractions. When making a decision, the Board is restricted to the record before it. The record before us in this case compels us to deny the claim.

The only way that this Board could upset that decision after a review of carrier's action would be for it to find that claimant's rights of due process or contract rights had been violated or that carrier was arbitrary, capricious, or discriminatory in its assessment of a penalty. We can find no such showing from the record before us in this case.

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