

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22867
Docket Number CL-22973

Paul C. Carter, Referee

PARTIES TO DISPUTE:

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8805)
that:

(1) Carrier violated the Agreement between the Parties when it arbitrarily, and in abuse of discretion, dismissed Extra Clerk A. A. Graham, Jr., from service effective September 1, 1978, and,

(2) Carrier shall, as a result, be required to restore Mr. Graham to Carrier's service with all rights unimpaired and compensate him for all wage losses from September 1, 1978, until so restored.

OPINION OF BOARD: The claimant had been in Carrier's service about four years. He was assigned to the clerical Extra Board at East St. Louis, Illinois. On August 15, 1978, he was notified to report for investigation on August 22, 1978, on the following charge:

"You are charged with failing to protect your assignment in that you did not protect calls for:

3:00 pm Yard Clerk on July 13, 1978
3:00 pm Yard Clerk on July 31, 1978
11:00 pm Caller on August 7, 1978. "

The investigation was conducted as scheduled and on September 1, 1978, claimant was notified of his dismissal from service. A transcript of the investigation has been made a part of the record. A review of that transcript and the record of the on-property handling shows that none of claimant's substantive procedural rights was violated.

There was substantial evidence in the investigation in support of the charge against claimant. Claimant's prior record in failing to protect his assignment was also far from satisfactory.

The Organization contends that the only penalty for failure to answer a call is a reduction in the guarantee under Rule 25. We do not find

such contention persuasive. As stated in Award 22513, involving the same parties and a similar situation:

"We are not persuaded by the Organization's claims that the only penalty for failure to answer a call is a reduction of the guarantee under Rule 25. The Carrier has an obligation to maintain a viable operation; to do so, it must be able to expect a responsive and available work force."

There is no proper basis for interfering with the discipline imposed by the Carrier.

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:


Executive Secretary

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