

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22871
Docket Number CL-22879

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Southern Railway Company
(
(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees

STATEMENT OF CLAIM: Carrier did not violate the agreement with the Brotherhood of Railway, Airline and Steamship Clerks as alleged, when it dismissed Mr. V. Cleveland, Line of Road Extra Board Clerk, Spartanburg, South Carolina, from the service of the Carrier for cause on August 2, 1977, following a fair and impartial investigation.

Since the agreement was not violated, Mr. Cleveland is not entitled to payment for all time lost beginning August 2, 1977, and continuing until he is restored to service with all rights unimpaired, as claimed in behalf of Mr. Cleveland and by the Clerks' Organization.

/Carrier's file CL-2679/

OPINION OF BOARD: Claimant was an Extra Board Clerk on Carrier's Piedmont Division. He was called to protect the 5 a.m. to 2 p.m. porter's position at Greenville between July 12 and July 16, 1977. Claimant informed Carrier representatives that he could not work because his wife was recuperating from surgery and he had to stay home.

On July 19, 1977, claimant was called to protect the 8 p.m. to 5 a.m. porter position in Charlotte, North Carolina, beginning on July 21, 1977. Carrier's representative was told by claimant's wife that he was out of town. This information was passed on to the Superintendent of the Division. The Superintendent instructed claimant's supervisor to find out where claimant was and to inform him that he was expected to appear for work on July 21, 1977.

It was subsequently discovered that claimant was attending a training program for corrections officers. It was well known that claimant also worked as a corrections officer while holding a job on the Extra Board with the railroad. Claimant was properly notified that he should appear for work as scheduled. He failed to do so. Carrier subsequently held a hearing into the matter and, as a result of that hearing, discharged claimant for failure to protect his assignment on July 21, 1977.

The transcript of that hearing has been made a part of the record of this case and it reveals that claimant was not denied any substantive procedural rights during the handling of the case on the property.

The record also clearly indicates that claimant was not properly marked off on July 21, 1977, and that he was obligated to appear for work as directed. Claimant, however, was attending a training program for corrections officers and his program was not completed until July 22nd. The facts reveal that claimant chose to ignore his obligation to show up for work on July 21, 1977; instead, he chose to complete his training program, which was related to his secondary employment.

It is not uncommon for railroad employees to moonlight, holding second jobs. If this outside work does not interfere with the employees' performance of their jobs on the railroad, no problems arise. But when an employee puts his outside job ahead of his obligation to the railroad, carrier is justified in taking action. Claimant in this case made a decision to subordinate his obligation to the railroad to his desire to receive training as a corrections officer. Carrier is not obligated to continue him in its employ.

This Board need not at this late date cite the numerous awards that speak to this point. Suffice it to say that each employee has an obligation to appear at work, as expected, and to stay away from work only for legitimate reasons. This does not include staying away from the job to prepare for work with another employer. Claimant in the case chose to complete his police training rather than appear for work when called. He made this decision at his own peril. Carrier is justified in terminating him for his actions.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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.

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Page 3

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That the dismissal of Mr. V. Cleveland is upheld.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 18th day of June 1980.