

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23230
Docket Number CL-22933

James F. Searce, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8771)

Carrier violated the Agreement when it unjustly suspended J. L. Williams, Clerk-Operator, Charleston, South Carolina, from the service of the Company, commencing August 3, 1974, and ending September 16, 1974, a period of 32 work days.

For this violation, the Carrier shall now compensate Claimant Williams, Clerk-Operator, Charleston, South Carolina, by paying him for all time lost as a result of this unjust discipline.

OPINION OF BOARD: Claimant was regularly assigned as Operator-Clerk on second shift at the Carrier's Seven Mile Yard at Charleston, South Carolina. His work week was Thursday-Monday with Tuesdays and Wednesdays as rest days. On August 1, 1974 -- a Thursday -- the Claimant contacted the appropriate Carrier official some six hours prior to his shift start requesting to be off for "personal business." Absence of an available extra board employee caused his request to be denied initially; however, the Claimant called attention to the fact that another Operator-Clerk (Martin) was observing his rest day and could be called in. The official agreed to try to contact Martin but contends he requested the Claimant to call back within two hours -- to determine if Martin was available. Per such supervisor, the Claimant did not call back, but as it turned out Martin was available even though he had pressing personal business of his own and would have opted to continue his rest day; however, Martin was adamant that he could only work the one day and would have to retain his other rest day to attend to such personal business. On August 2, 1974 the Claimant neither reported for duty nor informed the Carrier of his status and his position went unprotected for about an hour before the Carrier could cover it; when it did it had to prevail upon Martin to again give up his rest day. The Claimant was terminated for his failure to protect his position on August 2, 1974; the Claimant's prior disciplinary record -- two suspensions for failing to protect his position -- were considered in determining removal as the appropriate action. Subsequent consideration by the Carrier resulted in a reduction of removal to a 45-day suspension; it is this disciplinary action that is before this Board.

Essentially, the issue goes to what was agreed upon during the conversation between the Claimant and the Operator some hours before his shift was to start on August 1, 1974. The Claimant contends he did not specify precisely when he would return and thus was not obliged to return on August 2, or to report his status. This Board's review of the transcript and the record as a whole leads to a conclusion that the Carrier was justified in exacting the removal of the Claimant; its subsequent agreement to reduce it to a 45-day suspension was not excessive and, considering the fact that the Claimant had less than a year's seniority and two (2) progressive disciplinary suspensions -- one for 60 days during this period, the Carrier's reduction of removal to a suspension was a show of generosity -- which this Board trusts the Claimant used to demonstrate his worthiness as an exemplary employee.

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.

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 16th day of March 1981.

