

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23347
Docket Number CL-23370

Paul C. Carter, Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,
 { Freight Handlers, Express and Station Employees
 { Chicago, Milwaukee, St. Paul and Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the Committee of the Brotherhood
(GL-8984) that:

1. Carrier violated the Clerks' Rules Agreement at Chicago, Illinois when it charged employe D. Neilsen, held an investigation, and dismissed him without proving the alleged charges.

2. Carrier shall now be required to reinstate employe D. Neilsen, clear his records of the alleged charges and compensate him for all lost time commencing February 2, 1979 and continuing until his return to service.

3. Carrier shall further be required to pay premiums for the claimant's health and welfare, life insurance and dental plan coverage which it would have made had it not unjustly dismissed him from service.

4. Carrier shall further be required to pay interest at the rate of seven and one-half ($7\frac{1}{2}$) percent per annum, compounded annually on the anniversary date of this claim, based on the amount due in Item 2 above.

OPINION OF BOARD: Claimant was the regularly assigned occupant of Assistant Console Operator Position No. 23160, with assigned hours 3:30 P.M. to 12:00 Midnight, Monday through Friday. On February 2, 1979, he was notified of formal investigation to be held on February 7, 1979:

"...for the purpose of developing all facts and circumstances in connection with:

- 1) Allegedly being absent from your assignment without proper authority on January 31, 1979 from approximately 5:15 p.m. to 6:15 p.m.
- 2) Alleged consumption of alcoholic beverages during your assigned hours on January 31, 1979.

- "3) Allegedly having walked off your assignment without proper authority, thereby not protecting your assignment on January 31, 1979, from approximately 8:10 p.m. until the expiration time of your position.
- 4) Allegedly failing to perform the assigned duties of your position on January 31, 1979 from approximately 5:15 p.m. to 6:15 p.m. and 8:10 p.m. until the expiration time of your position.

You may be represented as provided for in your schedule rules and agreements.

Mr. J. C. Manders has been authorized by me to conduct the investigation."

The investigation was conducted as scheduled and on February 15, 1979, claimant was notified of his dismissal from service. The claim was handled in the usual manner on the property, and failing of settlement, was referred to this Board.

A copy of the transcript of the investigation conducted on February 7, 1979, has been made a part of the record. A careful review of the transcript shows that none of claimant's substantive procedural rights was violated. Claimant was present throughout the investigation and was represented.

There was substantial evidence adduced at the investigation in support of the charges against the claimant. The claimant admitted consuming alcoholic beverages in the Falcon Lounge during his assigned working hours. There was also substantial evidence in support of the balance of the charges. It is well settled that disciplinary proceedings are not criminal proceedings and that strict rules of evidence do not apply.

There is no proper basis for the Board to interfere with the discipline imposed.

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;

Award Number 23347
Docket Number CL-23370

Page 3

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

A. W. Paulson
ATTEST: _____
Executive Secretary

Dated at Chicago, Illinois, this 14th day of August 1981.