

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23934
Docket Number CL-23877

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9368)
that:

1. Carrier violated the effective Agreement Rules, particularly Rule 21, when under date of May 26, 1977 it dismissed Mr. Patrick J. Terry from service without just cause; and

2. Carrier shall now reinstate Mr. Patrick J. Terry to service with all rights unimpaired, and compensate him for all time lost as a result of the unjust dismissal, to include making him whole for all fringe benefit losses as well.

OPINION OF BOARD: Claimant Patrick J. Terry, Telegrapher-Clerk, received a notice of investigation dated May 19, 1977 concerning:

"Your responsibility for your failure to properly copy Train Order #237 addressed to Extra 4367 West (297's Extra) at Butler, Wisconsin on May 18, 1977 when complete time was omitted while employed as Tel-Clerk, Job 003, commencing duty at 3:59 PM."

A hearing was held on May 23, 1977 and Claimant was dismissed from service on May 26, 1977.

A review of the record establishes that Claimant did fail to include the complete time when copying the Train Order in question. There was substantial evidence in the record to support Carrier's decision to discipline Claimant. Nevertheless, the penalty of dismissal is too severe in this Board's opinion. Accordingly the Claimant is to be restored to service with seniority rights unimpaired but without back pay for the time spent out of service. Claimant is admonished that he is being given a last chance to prove himself and that he should take every advantage of this final opportunity.

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 discipline was excessive.

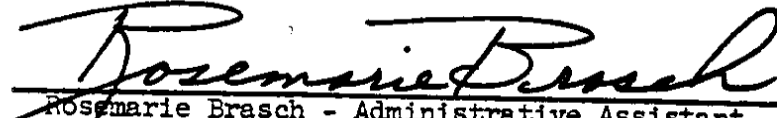
A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 30th day of June 1982.

