

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24134
Docket Number CL-23433

Joseph A. Sickles, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and Steamship Clerks,
{ Freight Handlers, Express and Station Employes
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-9015) that:

(a) Carrier violated the provisions of the current Clerks' Agreement at Barstow, California, on or about July 19, 1978, when it wrongfully assessed the personal record of Mr. C. R. Hinkle with twenty demerits, and

(b) Carrier shall now remove the twenty demerits and any reference to the formal investigation held on July 3, 1978, from the personal record of Mr. C. R. Hinkle.

OPINION OF BOARD: In June of 1978 the Claimant was notified to attend a formal Investigation concerning a charge that he was allegedly dishonest when he attempted to secure permission to lay off at approximately 9:40 PM on June 20, 1978 and the Employee allegedly failed to report for his regular assignment at 11:59 on that date.

Subsequent to the Investigation the Claimant's personal record was assessed twenty (20) demerits.

According to the evidence presented by the Carrier, at 9:40 PM on the day in question the Claimant called the crew office and stated that he had to lay off because his car had broken down. When the crew caller advised the Claimant that he did not have the authority to grant the request the crew clerk informed him that he could only lay off an individual for illness at which time the Claimant told the crew clerk to lay him off sick. The Claimant made no attempt to contact the assistant agent to secure permission to lay off for personal business.

The Claimant asserts that he was unable to report for work due to the automobile difficulty which constituted an emergency and the crew caller improperly completed the necessary form.

We have reviewed the record at length and have noted that there is a basic credibility dispute presented. It is not our function to resolve credibility disputes and under this record there is evidence presented which substantiates the conclusions reached by the Carrier and accordingly we will deny the claim.

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: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 27th day of January 1983.

