

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24422
Docket Number CL-24413

George S. Roukis, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9557)
that:

1. The Carrier violated the existing working Agreement when it suspended from service Z. H. Williams for a period beginning January 8, 1981 continuing through January 14, 1981.

2. The Carrier shall now reimburse S. H. Williams for all lost wages and benefits suffered for this five day period.

OPINION OF BOARD: This Board has carefully reviewed the voluminous trial transcript submitted to the Division and finds that the investigative hearing which began on September 18, 1980 and ended December 17, 1980 was conducted in accordance with accepted due process principles. We find no evidence that the investigation was held in a manner prejudicial to the Claimant or any commission of procedural errors. We find, however, that the record evidence relative to the charges and specifications amply supports Carrier's position, but we find no evidence in Claimant's assertions and defense that would lend substantive credence to his unjust treatment charges.

Careful analysis of the investigative record persuasively indicates that Office Manager J. W. Wilson had reasonable cause to monitor closely Claimant's work performance on July 28 and 29, 1980, and his findings that Claimant abused the telephone privileges and neglected his work were confirmed by his testimonial depiction of Claimant's specific activities. When we examine Claimant's behavior in the Office Manager's office on July 30, 1980, we can only conclude that his vitriolic outburst, which resulted in damage to office property, was without any redeeming extenuation. His behavior was plainly atrocious. Moreover, when we examine Claimant's past disciplinary record, we are literally chagrined at the numerous times he was counselled by letter for similar behavior. He was formally admonished on several occasions for improper use of the telephone and for inattention to his work duties. His pattern of recidivist behavior confirms his propensity for avoiding Carrier's rule regarding telephone usage and it is compounded in this instance by our finding that he spent an inordinate amount of time on the charged dates, notwithstanding the fact that his job doesn't require that he use the telephone to perform company business. When we consider his sum total deportment on July 28, 29 and 30, 1980 within the context of his employment record, we are compelled by judicial necessity to sustain Carrier's disciplinary determination.

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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of June 1983.

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