

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24564
Docket Number CL-24640

Tedford E. Schoonover, 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 System Committee of the Brotherhood (GL-9624)
that:

1) Carrier violated the Clerks' Rules Agreement at Chicago, Illinois when it charged, held investigation and assessed discipline of disqualification against Employee I. R. Blair on October 24, 1980.

2) Carrier shall now be required to reinstate Employee I. R. Blair to her former position and compensate her for all lost time due to her disqualification.

OPINION OF BOARD: Claimant was employed as a Car Record Clerk-Grade B Position No. 06270 on July 31, 1980. Her seniority date is January 16, 1956.

On September 30, 1980, the Manager Equipment Accounting Mr. K. E. Konczyk addressed a letter to claimant as follows:

"Please be advised that charges are hereby preferred against you for failure to properly and wholly perform the duties of your regularly assigned position number 06270, on September 22, 23, 24, 25, 26 and 30, 1980.

Investigation in connection with the aforementioned charges being preferred against you will be held in Room 318, Union Station Building, 516 West Jackson Boulevard, Chicago, Illinois at 10:00 a.m. on Friday, October 3, 1980.

At the investigation you may be represented by one or more duly accredited representatives."

Based on request of the Union the hearing was postponed until October 15, 1980. On October 24, 1980, Mr. Konczyk addressed the following letter to claimant:

"Careful consideration of the testimony given at the investigation held with you on October 15, 1980 in connection with the charges stated in letter to you of September 30, 1980, sufficiently substantiates your responsibility in connection with those charges.

Because of your responsibility in connection with those charges you are disqualified from your Car Record Clerk Grade B position number 06270 effective with the close of business October 24, 1980.

You will be considered furloughed as a result of your disqualification."

Claim was appealed as provided in the labor agreement. There is no contention that claimant was not accorded a fair and impartial hearing as required by provisions of Rule 22. During the hearing detailed records were presented as to the number of claims processed by claimant on the six dates in September 1980, quoted above. On the six dates she worked 79 claims and of this number 21 or 26-1/2% were processed incorrectly. Two of the Carrier officers who testified at the hearing stated they had given claimant training on the job and that she was encouraged to ask questions on matters she did not understand. This record does not support Union contention that claimant was disqualified because she did not perform her job with sufficient speed. It was shown by numerous examples given during the hearing where claimant made significant errors in working individual claims. Similarly, the record does not support the contention that claimant did not enjoy friendly and helpful cooperation on the job.

The evidence supports a finding that Carrier's action in disqualifying claimant was based on just and reasonable causes. Very clearly she demonstrated an inability to perform the job within reasonable expectations for speed and accuracy. It is a position of important responsibilities. The person filling it is required to work claims for interline car charges that amount to significant amounts. It is clear Carrier could not tolerate someone in the job who repeatedly made errors in computing charges. There is no support for the contention that Carrier's action in disqualifying claimant was arbitrary, capricious and inconsistent with the facts.

The conclusive evidence in this case may be likened to two other Third Division Awards, 19843 and 19877, as follows:

THIRD DIVISION AWARD NO. 19843 (Referee Alfred Brent)

"The record in this case contains sufficient evidence which conclusively indicates that the Claimant was guilty as charged. Accordingly, this Board will not substitute its judgment for that of the Carrier and will deny the claim." (Emphasis Ours)

THIRD DIVISION AWARD NO. 19877 (Referee Benjamin Rubenstein)

"It has been consistently held in Awards of this Board that where Carrier has produced substantial evidence and has acted on such evidence in a manner consistent therewith, without a showing of abuse of discretion, we will not substitute our judgment for that of the Carrier, nor disturb its imposition of discipline - if it is consistent with the offense committed (sic). Based on all the facts of record in this dispute, we will deny the claim." (Emphasis Ours)

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:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 17th day of November, 1983.