

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24647
Docket Number CL-24592

Robert W. McAllister, Referee

PARTIES TO DISPUTE: . ((Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employes
(Illinois Central Gulf Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9608)
that:

1. Company violated the agreement between the Parties when on July 16, 1980, it arbitrarily assessed discipline of termination to Clerk N. G. Farrell.

2. Company violated Rule 22 of the Agreement when Claimant was dismissed from service for charges he was not notified he was being investigated for.

3. Company shall now be required to reinstate Claimant N. G. Farrell with all seniority rights unimpaired and pay for all time lost at his respective rate of pay beginning July 17, 1980, and running continuously until dispute is settled.

OPINION OF BOARD: The Claimant, N. G. Farrell, was initially employed by the Carrier on July 23, 1960. He was regularly assigned to the second trick Control Operator position at the Riverdale Tower, Riverdale, Illinois. On July 16, 1980, he was held out of service pending an investigation for suspicion of using intoxicants prior to or while on duty that evening. Subsequently, a hearing was conducted, and the Claimant was found to have violated Rule G as well as P and 637 and was dismissed from service.

The Organization protests the additional charged violations of Rules P and 637 in that the notice of investigation was not worded in a manner which would in any manner alert the Claimant and the Organization to mount a proper defense against such charges. The Organization also views the record as failing to establish by a preponderance of the evidence that the Claimant violated Rule G.

This is a record overlaid with contradictory testimony. Our review of the testimony and the submitted exhibits, however, do not support the assertions the Carrier's conclusion that the Claimant violated Rule G is reversible error. Therefore, with respect to the Carrier's findings on Rule G, we uphold the Carrier's action.

This Board has concluded, however, that the Claimant's suspension to date, considering the long service involved, is sufficient punishment for the offense. We will, therefore, award that the Claimant be restored to service with seniority unimpaired. No compensation is involved. The Claimant must understand this award avails him of a final opportunity to demonstrate the competency and responsibility required of all employees. The movement of trains mandates clear thinking without interference or distraction. If such infractions are ever repeated, he must understand it will result in the irrevocable termination of his services.

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 Employee 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

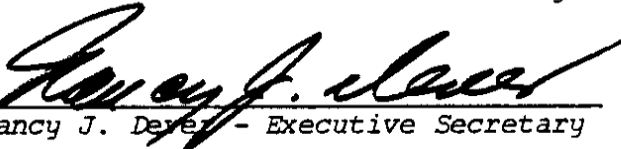
That the Agreement was violated.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois this 30th day of January, 1984

