

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25203
Docket Number CL-25502

James Robert Cox, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees

PARTIES TO DISPUTE:

(
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9837) that:

1. Carrier violated the Agreement Rules, particularly Rule 21, when under date of November 26, 1982 it dismissed from service Mr. Jessie Martin, Order Filler Clerk, as the result of a formal investigation held on November 19, 1982; and

2. Carrier shall be required to reinstate Mr. Jessie Martin with all rights unimpaired, and compensate him for all monetary losses suffered, to include fringe benefit entitlements, commencing November 26, 1982 and continuing until this violation is corrected.

OPINION OF BOARD: Claimant Jessie Martin volunteered to work Thursday, November 11, 1982 which, in addition to being Claimant's normal day of rest, was a National Holiday. Claimant's shift commenced at 8:00 a.m., but he overslept, called the Carrier at 8:05 and came to the premises sometime between 8:35 and 8:55 to perform his duty as an Order Filler in the Materials Department at the Carrier's M19-A Diesel Shop. His duties included distributing material to Machinists and Mechanics from the Store Department. Claimant had received three suspensions in 1980 for poor attendance and, in March and April, 1982 received additional suspensions for tardiness.

The record does not, however, indicate that Claimant was tardy or absent following his return from his April 30th suspension, a period of approximately five months.

Considering the circumstances of Martin's tardiness November 11, 1982, including the fact that Claimant overslept on a day which was ordinarily his normal day off following a period of significantly improved attendance makes the discipline for a single lateness excessive. Claimant's tardiness, however, when combined with his total past record justifies substantial discipline but the Carrier is required to reinstate the Claimant with full seniority but without back pay.

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

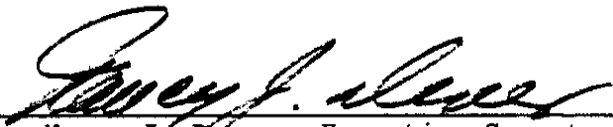
That the discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1985.

