

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25890  
Docket Number CL-25641

David P. Twomey, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and Steamship Clerks,  
(Freight Handlers, Express and Station Employees  
(  
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood  
(GL-9842) that:

1. Carrier violated the terms of the current Agreement, particularly Rule 21, when it dismissed from service Mr. J. H. Ferrara, Director, Lake Street Tower, account of investigation held on August 25, 1982, and

2. Carrier shall be required to return Mr. J. H. Ferrara to service with all rights unimpaired and compensated for all time lost, as well as any monies he may have spent for services that would have been covered under the provisions of Travelers Group Plan GA-23000 and Aetna Group Policy GP-12000 since his dismissal on August 27, 1982."

OPINION OF BOARD:

The Claimant, Mr. J. H. Ferrara, entered the Carrier's service on October 7, 1974. He was dismissed from the Carrier's service following an investigation held on August 25, 1982, by Discipline Notice dated August 27, 1982.

We find that the Organization's procedural contentions are without merit.

We find that substantial evidence of record, including Mr. Ferrara's own testimony, supports the Carrier's determination that he was responsible for being absent from duty without proper authority on Tuesday, August 17, 1982. The evidence also reveals that Mr. Ferrara had filled out Form 490 on August 9, 1982 for the entire work period ending on August 17, 1982, and that Mr. S. M. Peczkowski, Supervisor of Control Operations, Suburban Division, removed the form from the tower on the evening of August 17, 1982. While there was conflicting testimony as to the reason why Mr. Ferrara left the tower, even by Mr. Ferrara's version of why he left the tower, he was responsible for major work rule violations of the Carrier's Consolidated Code. Major discipline was clearly appropriate in this case.

We have considered Mr. Ferrara's record, including the fact that he entered Carrier's service at eighteen and a half years of age and was subject to certain discipline of record during his first three years of service. During the subsequent five year period from August 11, 1977, to the instant matter of August 17, 1982, Mr. Ferrara had a clear service record. We believe Mr. Ferrara has had an opportunity to fully reflect on his responsibility for the major work rules violations of August 17, 1982, and to reflect on the quality of the work life of his railroad employment in contrast to other employment options. We believe that the long period of time Mr. Ferrara has been out of service has served its purpose, and that he should be given a final opportunity to prove that he values his job and that he will diligently

fulfill all of the responsibilities of his position at all times. Mr. Ferrara shall be returned to service with all rights unimpaired, but without backpay.

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.

AWARD

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 30th day of January 1986.