

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25912
Docket Number CL-25976

Paul C. Carter, Referee

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

PARTIES TO DISPUTES: (

(Missouri Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9920) that:

1. Carrier violated the agreement between the parties when it arbitrarily and injudiciously dismissed Clerk Florence Stoner from its service beginning October 29, 1982.

2. Carrier's action in dismissing Clerk Stoner from service was unjust, arbitrary and an abuse of discretion.

3. Carrier shall now be required to expunge the record of investigation from Clerk Stoner's personal record file and compensate her for all wage and other losses sustained account Carrier's action."

OPINION OF BOARD: The record shows that Claimant entered the Carrier's service on November 6, 1978. At the time of the occurrence giving rise to the dispute herein she was employed at Carrier's Freeport, Texas, station. Following an investigation conducted on October 26, 1982, Claimant was dismissed from service on October 29, 1982.

The charge against the Claimant, issued by the Trainmaster on October 20, 1982, was:

"Report to the Asst. Superintendent's office, Freeport, Texas, Tuesday, October 26, 1982, at 10:00 AM for formal investigation to develop the facts and determine your responsibility, if any, in connection with the allegation that you misrepresented the reason for your absence from your position as Clerk on Job #124 on October 6, 1982.

"If you desire witnesses or representatives, you must arrange therefore (sic) in accordance with applicable scheduled agreements."

A copy of the Transcript of the Investigation, conducted on October 26, 1982, has been made a part of the record. From our review of the record, we find that the charge against the Claimant was timely under the applicable Agreement. We find that none of Claimant's substantive procedural rights was violated.

Based upon the entire record, the Board finds and holds that discipline was warranted; however, permanent dismissal was excessive. We will award that Claimant be restored to service with seniority and other rights unimpaired, but without any compensation for time lost while out of service.

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 Employee 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 discipline imposed was excessive.

A W A R D

Claim sustained in accordance with Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1986.

