

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26442  
Docket Number MS-26602

James R. Johnson, Referee

PARTIES TO DISPUTE: (J. H. Johnson  
(  
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of J. H. Johnson that:

(a) Carrier violated the rules of the current Clerks' Agreement at Los Angeles, California, when it removed Mr. J. H. Johnson from service as a result of a formal investigation held on August 25, 1983, and

(b) Mr. J. H. Johnson shall now be returned to Carrier service and paid for all loss of wages and benefits commencing on or about August 25, 1983."

OPINION OF BOARD: This is the third of three cases pending before this Board which involve the Claimant (see Third Division Awards 26440 and 26441). In this case, the Claimant was discharged under the Brown System of Discipline, for accumulating more than sixty demerits.

The discipline upheld in Third Division Award 26441, raised Claimant's demerit balance to seventy and, therefore, subjected him to discharge. The Claimant raised several objections to the handling of the Investigation, and the Board finds them all to be without merit. The Hearing was handled in a fair and impartial manner, despite Claimant's numerous attempts to obfuscate the issue and provoke the Hearing Officer to commit a fatal error.

Throughout the handling of this case on the property, and in his Submissions before this Board, the Claimant has made countless spurious and hypertechnical objections. None of these arguments has any merit, and have served only to severely damage his credibility. It is clear that this Claimant repeatedly attempted to make a mockery of the process agreed upon by the parties to the Agreement and, in so doing, failed to mount any appropriate or credible defense.

In the case at hand, the issue is merely whether or not he had accumulated a balance of sixty or more demerits on his record. The Board already has found that the final thirty demerits assessed were warranted, and the Transcript of the Investigation in this case clearly demonstrates that his balance was seventy demerits. The validity of the Brown System has been upheld many times, and this Board will uphold it here.

The Board finds that the Claimant was properly discharged for excessive demerits.

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 Employes involved in this dispute are respectively Carrier and Employes 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 24th day of August 1987.