

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26465
Docket Number CL-26963

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10060) that:

Claim No. 1:

(a) Carrier violated the Agreement at Topeka, Kansas on January 18, 1984 when it improperly assessed the personal record of Ms. Shirley J. Bryant with thirty (30) demerits, and

(b) Carrier shall now expunge the thirty (30) demerits from the personal record of Shirley J. Bryant, which were assessed on January 18, 1984.

Claim No. 2:

(a) Carrier violated the Agreement at Topeka, Kansas on July 31, 1984 when it improperly assessed the personal record of Ms. Shirley J. Bryant with (10) demerits, and

(b) Carrier shall now expunge the ten (10) demerits from the personal record of Shirley J. Bryant which were assessed on July 31, 1984.

Claim No. 3:

(a) Carrier violated the Agreement at Topeka, Kansas on July 31, 1984 when it improperly assessed the personal record of Ms. Shirley J. Bryant with twenty (20) demerits, and

(b) Carrier shall now expunge the twenty (20) demerits from the personal record of Shirley J. Bryant which were assessed on July 31, 1984.

Claim No. 4:

(a) Carrier violated the Agreement when it assessed the personal record of Ms. Shirley J. Lusco (formerly Bryant) with thirty (30) demerits on October 26, 1984, and

(b) Carrier shall now expunge the thirty (30) demerits from Ms. Shirley J. Lusco's personal record which were assessed on October 26, 1984.

Claim No. 5:

(a) Carrier violated the Agreement at Topeka, Kansas on November 1, 1984 when it removed Ms. Shirley J. Lusco from its service, and

(b) Carrier shall now reinstate Ms. Shirley J. Lusco to service with all rights unimpaired and with pay for all time lost."

OPINION OF BOARD: The Docket involves five Claims, all involving the same Claimant, that were handled separately on the property and combined in one Submission to this Board, resulting in a rather voluminous record.

Four of the Claims involved the assessment of demerits against Claimant under the Brown System of Discipline in effect on Carrier's property, and the fifth Claim involved the dismissal of Claimant for having accumulated in excess of sixty demerits in violation of the applicable Rule providing:

"... a balance of sixty demerits subjects an employe to dismissal."

We have carefully reviewed the record as developed on the property in each Claim. We find that none of Claimant's Agreement rights was violated and that the record in each case contained substantial evidence supporting the Carrier's actions in assessing the demerits as indicated in each of the first four Claims.

As a result of the assessment of demerits in the first four cases, Claimant's record showed an accumulation of 60 or more (80) demerits. On October 26, 1984, Claimant was notified to report for formal Investigation on November 1, 1984:

"...to develop all the facts and place responsibility, if any, concerning your accumulation of 60 or more (80) demerits which is in violation of Rule 31, second sentence of sub-paragraph H of the General Rules for the Guidance of Employees, Form 2626 Standard, 1978 Revision.

A balance of 60 demerits subjects an employe to dismissal. You will accordingly be present for investigation at the time and place specified per Rule 24 of the current Clerk's Agreement."

The Investigation was conducted as scheduled. A copy of the Transcript has been made a part of the record. Claimant was present throughout the Investigation and was represented. There was evidence in the Investigation to support the charge. Claimant stated that she was familiar with the discipline Rules, especially that part providing:

"A balance of 60 demerits subjects an employe to dismissal."

Claimant was removed from service at the close of her shift on November 1, 1984.

The record shows that the Brown System of Discipline has been in effect on Carrier's property since 1923. See Award Nos. 1820 and 6382 of the Second Division.

There is no proper basis for the Board to interfere with the discipline imposed in Claim No. 5.

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

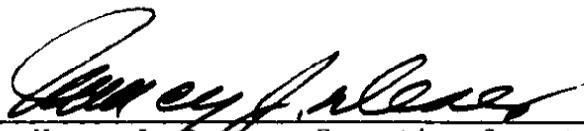
That the Agreement was not violated.

A W A R D

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 9th day of September 1987.