

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26466
Docket Number CL-26977

Paul C. Carter, Referee

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

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10066) that:

(a) Carrier violated the current Agreement when it imposed harsh and severe penalty on Charles D. Simpson, Jr. for alleged violations of Rules 1, 2, 14, 15, 16, and 17, General Rules for the Guidance of Employees, Form 2626 Standard, 1978 edition, and

(b) Charles D. Simpson, Jr. shall now be reinstated to service of the Carrier with all rights unimpaired and paid for all monetary loss sustained as a result of being discharged on October 20, 1984, at 8:00 a.m., and

(c) Charles D. Simpson Jr. shall be paid an additional twelve (12) per cent per annum interest until claim is paid.

OPINION OF BOARD: Following a rather lengthy investigation conducted on October 11, 1984, Claimant was dismissed from service, effective October 20, 1984, the dismissal notice reading in part:

"It has been determined that you were inattentive to your duties and/or not devoting full attention to your duties on September 18, 1984 while attending a company safety meeting at 4:25 AM., and also on September 19, 1984, at 5:00 AM, during your tour of duty as a Sorting Machine Helper at the Tie Sorting and Stacking Machine, Somerville Treating Plant.

The decision is that you be removed from service effective at 8:00 AM. October 20, 1984."

A copy of the Transcript of the Investigation conducted on October 11, 1984, has been made a part of the record. In the Investigation, substantial evidence was presented that Claimant was asleep while attending a Carrier safety meeting at 4:25 A.M., September 18, 1984, and was asleep at 5:00 A.M., September 19, 1984, while on duty as a Sorting Machine Helper at the Tie Sorting and Stacking Machine, Somerville Treating Plant.

Numerous Awards of the National Railroad Adjustment Board have held that sleeping on duty is a dismissal offense. (Second Division Award Nos. 10864, 10325 and others cited therein.)

There is no proper basis for the Board to interfere with the discipline imposed by the Carrier in the present case.

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

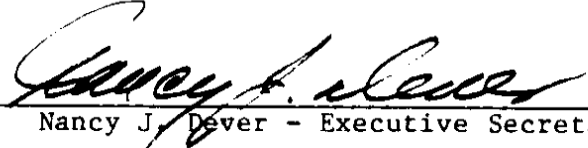
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

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