

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 28079  
Docket No. CL-28448  
89-3-88-3-249

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union  
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Organization (GL-10272) that:

(1) Carrier violated the rules of the current Clerks' Agreement at Fresno, California, when it improperly removed Mrs. S. L. Bady from service on July 31, 1987, and

(2) Mrs. Bady shall now be returned to Carrier's service and paid for loss of wages and benefits commencing July 31, 1987."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant, a Steno in Fresno, California, was notified to attend an Investigation into her allegedly absenting herself from duty without proper authority beginning June 12, 1987. Following a Hearing on July 21, 1987, she was found guilty of the charge and dismissed from service.

The Organization maintains that Claimant properly notified her Supervisors that she would be unable to protect her assignment commencing June 12, 1987, and that she would not be able to return to work until released by her physician. She was in the hospital between June 17 and 22, 1987, but was not released by her doctor at that time. Carrier, on the other hand, argues that Claimant was off without an approved leave of absence and did not furnish a doctor's statement, as requested. Carrier also points to Claimant's poor past attendance record as grounds for upholding her dismissal.

This Board finds the record somewhat unclear as to what occurred here and who precisely was made aware of her request to be off. While it appears

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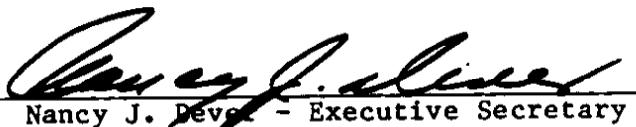
that Claimant did not follow appropriate procedures in all respects, there is also some evidence that she was in fact ill at the time. Under these circumstances, we shall return her to work, with seniority and all other rights intact, but without backpay. Claimant must be aware, however, that good attendance and proper adherence to procedures is essential for her to retain her employment in the future with Carrier.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Deve - Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1989.