

The Third Division consisted of the regular members and in addition Referee Barry E. Simon when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union  
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10376) that:

(CARRIER'S FILE NO. TCU-D-2959/TCU FILE NO. 393-D8-091-S)

1. Carrier, acting arbitrarily, violating Rule 24 and other related rules of the Agreement when, on July 14, 1988, it assessed Claimant, Ms. Lillian Granados, discipline of five (5) days' suspension from service commencing July 19, 1988 and ending on July 23, 1988.

2. Carrier shall now be required to compensate Claimant five (5) days' pay at the pro rata Reservation Sales Agent rate and clear Claimant's service record of any reference to discipline in connection with this matter."

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 was assessed a five day suspension for absenteeism. At her disciplinary Hearing, Claimant did not dispute the fact that within a 24 day period she was absent on nine days, late more than one hour a tenth day and left almost three and one-half hours early on an eleventh day. In her defense, Claimant explained that she had been on a leave of absence due to an injury, but had exhausted her sick pay. Claimant was informed by the secretary to the Sales Office Administrator that she would be eligible for sick pay for the new calendar year if she returned from her leave of absence and then called in sick.

When Claimant returned to work from her leave of absence, she did so on the basis that she was fit for service and her attendance at work would be regular. Claimant obviously failed to meet this requirement. The advice furnished by the Administrator's secretary was merely an explanation of the sick pay rule. It should not have been taken by Claimant as authority to return to service merely for the purpose of reinstating her sick pay. If Claimant was unfit for service, she could have protected herself with the leave of absence. While we recognize that this may have resulted in financial hardship for her, that is a matter to be addressed at the bargaining table and cannot be remedied by this Board.

Claimant's attendance record during this brief period of time warranted the discipline imposed in this case. We note that Claimant had received a five day suspension for absenteeism during the previous six months. Accordingly, the suspension in this case was not excessive.

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 27th day of September 1990.