

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 33170  
Docket No. CL-31824  
99-3-94-3-113**

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

**PARTIES TO DISPUTE:** (Transportation Communications International Union  
(Chicago and North Western Transportation Company)

**STATEMENT OF CLAIM:**

“Claim of the System Committee of the Organization (GL-11016) that:

1. Carrier violated the effective Agreement when it removed K. A. Whitsey from service effective August 31, 1992, and following investigation held on September 4, 1992, dismissed Mr. Whitsey from service per Discipline Notice #38 dated September 10, 1992.
2. Carrier shall now return Mr. Whitsey to service with all rights unimpaired, clear his personal record of the charges, investigation and discipline assessed him and shall compensate him for all time lost as well as compensate him for any expenses incurred by him as a result of health and welfare benefits being withheld from him.”

**FINDINGS:**

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

Claimant was assigned as a Ticket Agent at the Chicago Passenger Terminal. On August 31, 1992, he entered the ticket office and had a work related discussion with a fellow Ticket Agent. The conversation became heated and a physical altercation followed. That altercation was shortly thereafter broken up by a third Ticket Agent.

Carrier filed charges against the Claimant and held a formal Investigation on September 4, 1992, after which the Claimant was dismissed from the Carrier's service.

Review of the transcript proves that Claimant was involved in an altercation. Fighting among employees is normally a serious infraction of Carrier Rules warranting disciplinary measures sometimes resulting in permanent dismissal. In this instance, however, dismissal is excessive. The Board determines that Claimant should be restored to service with seniority, vacation and all other rights unimpaired, but without pay for time lost. The Claimant is forewarned that another serious infraction of Carrier Rules of this same nature could result in permanent dismissal.

### AWARD

Claim sustained in accordance with the Findings.

### ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of March 1999.