

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33840
Docket No. CL-33431
99-3-96-3-949**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11538) that:

- (1) Carrier violated the provisions of Rule 24 when, on September 19, 1994, it held Claimant from service pending a disciplinary investigation.**
- (2) Carrier acted in an arbitrary, capricious and unjust manner in violation of Rule 24 of the Agreement, when by notice of October 12, 1994, it assessed discipline of “Termination from Service” against Claimant, pursuant to an investigation held on September 28, 1995.**
- (3) Carrier shall now reinstate Claimant to service with seniority rights unimpaired and compensate Claimant an amount equal to what he would have earned, including but not limited to daily wages, holiday pay and overtime, had he not been held from service and had discipline not been assessed.**
- (4) Carrier shall now expunge the charges and discipline from Claimant’s record.**
- (5) Carrier shall now reimburse Claimant for any amounts paid by him for medical, surgical or dental expense to the extent that such payments would be payable by the current insurance provided by Carrier.**

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.

After Investigation, Claimant, a Baggage Person, was dismissed by letter of October 12, 1994 for accepting payment from a customer and not remitting or reporting the same to the Carrier.

The record shows that on August 22, 1994, while working at Emeryville, California, Claimant accepted a 27 piece shipment from a customer to be shipped to Ann Arbor, Michigan, and collected approximately \$221.00. The customer testified that Claimant handled the shipment and that he gave payment to Claimant. According to the customer, Claimant was paid in cash. The testimony of the Lead Baggage Person D. Williams shows that he assisted Claimant with the transaction with the customer and that Claimant took care of the customer's paperwork and monies. The testimony of the Customer Service Supervisor M. Jaeger establishes that the monies were not remitted to the Carrier.

Substantial evidence supports the Carrier's position that Claimant engaged in conduct worthy of discipline. Under the circumstances, dismissal was not arbitrary.

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 21st day of December 1999.