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Docket No. CL-8306
Award No. 17

SPECIAL BOARD OF ADJUSTMENT NO. 177 (PRR)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

Irene R. Dylewski, Clerk, Station Department, Erie, Pennsylvania, Northern Division, be returned to service with all rights unimpaired and be compensated for all monetary loss sustained dating from November 21, 1954, until adjusted. (Docket C-783)

FINDINGS: Claimant was dismissed from service after trial on charge of refusing to obey instructions of proper supervision and improper conduct toward an officer of the Company. She was the incumbent of a clerical position known as Relief #2 in the Erie station department. Upon being advised of change in her assignment sufficient in her opinion to permit her to exercise seniority on F-130 position she gave notice of intent to do so. Thereafter she was handed a letter over the signature of the agent advising her that there would be no change in her existing schedule, that she would continue as before on Relief #2 position and that the Agent would advise her at a later date if a bump was in order. Notwithstanding that instruction, Claimant reported for the F-130 position before the 7:00 A.M. starting time and started working the job. When the incumbent arrived he called the agent at his home and the agent sought to question Claimant over the 'phone. She refused to tell him whether she had received the notice instructing her to remain on her present position. He then instructed her to leave the office immediately but she remained there attempting to work the job until 8:30 A.M. before leaving. After trial she was dismissed from service January 19, 1955.

Following dismissal and appeal, Claimant was offered reinstatement and return to duty effective February 5, 1955, but declined to accept reinstatement without pay for time lost.

Claimant was in position immediately to file claim if she thought she had wrongfully been deprived of right to position F-130. In taking possession of the position and in refusing to leave the office she deliberately refused to obey instructions and in her persistent refusal to answer the agent's question she was guilty of improper conduct toward an officer of the Company.

At the trial Claimant made a long statement showing friction between her and other employees and admitted resentment. She further read into the record two letters testifying to her pleasant attitude in her work. That opened the door for evidence to the contrary and letters written by Claimant and statements by fellow employees were offered showing that she was not cooperative but disagreeable in her work and given to stirring up trouble and dissatisfaction in the offices where employed.

The charges against Claimant were clearly established. Permanent dismissal was drastic punishment for such offense but the subsequent offer of reinstatement made the penalty in fact not one of dismissal but one of suspension

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from November 21 when she was held out of service until February 4. In view of the record we are unable to find that such penalty was arbitrary, and Claimant's failure thereafter to return was not the fault of Carrier.

AWARD: Claimant ordered reinstated without pay for time lost but with all rights restored.

Signed this 17th day of July, 1957.

/s/ R. H. Skinner, Jr.
R. H. Skinner, Jr., Carrier Member

/s/ S. V. W. Loehr
S. V. W. Loehr, Employee Member

/s/ Mortimer Stone
Mortimer Stone - Chairman