

SPECIAL BOARD OF ADJUSTMENT NO. 166

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees on the Missouri Pacific Railroad, that the Carrier violated the Clerks' Agreement:

1. When, on January 28, 1955, following formal investigation held on January 27, 1955, the Division Superintendent, St. Louis Terminal Division, unjustly discharged from the service of the Company Clerk B. M. Thompson, occupant of position of Junction Clerk, rate \$14.96 per day, Dupo, Illinois Terminal seniority date, Class "B", February 21, 1942, Class "A", April 7, 1942, and refused and continued to refuse to return Clerk Thompson to service with seniority rights unimpaired and with pay for all wage loss suffered;
2. The Carrier shall be directed to reinstate Clerk Thompson with seniority rights unimpaired and compensate him for all wage loss suffered from the date he was removed from his position, January 28, 1955, at the close of duty, 3 PM, until the date he is returned to work, account Carrier's action in violation of the Clerks' Agreement, Rule 18 (a) and (k).

FINDINGS: Claimant was dismissed January 28, 1955, after investigation, for alleged insubordination. The evidence does not show any direct refusal to perform a task directed by a Supervisor; it does show that when a Supervisor told him another clerk wanted to give him the carding on a train, the claimant said he would not take the carding from him as he was giving two or three numbers at a time and he couldn't remember them to make the cards. He was not then sent home or otherwise directed to perform the work, nor was any attempt made to straighten out the difficulty he was complaining about.

It appears that claimant had been in service about 13 years with no prior discipline. Under such circumstances, it appears that discharge was wholly improper.

It is true, of course, that if claimant had some complaint about the way other clerks were calling numbers to him, he should have registered it in a reasonable manner with his Supervisor so that it could be straightened out rather than to adopt the attitude and make the statement that he wouldn't take them from that clerk. Obviously then, claimant was guilty of misconduct, justifying some discipline.

Award No. 7
Docket No. 7

After consideration of the whole matter, it is deemed appropriate to order the reinstatement of claimant without pay for a period of one year, which should be considered as a disciplinary suspension, and thereafter that he be compensated for wage loss less earnings in other employment.

AWARD: Claimant shall be reinstated to his former employment status without compensation for a period of one year from the date of his dismissal and with compensation for wage loss thereafter less earnings in other employment during the same period.

SPECIAL BOARD OF ADJUSTMENT NO. 166

/s/ Dudley E. Whiting
Dudley E. Whiting - Chairman

/s/ Ira F. Thomas
I. F. Thomas - Employee Member

/s/ G. W. Johnson
G. W. Johnson - Carrier Member

St. Louis, Missouri
January 16, 1957