

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21459
Docket Number CL-21629

David C. **Randles**, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station **Employes**
(Consolidated Rail Corporation
((**former Lehigh Valley** Railroad Company)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8093) that :

(a) Carrier's action in assessing Scrap Cutter George W. Johnson with discipline to the extent of **45** demerits as a consequence of an alleged "hearing and investigation" at 10:00 A.M. and an additional 15 demerits as a consequence of a second alleged "hearing and investigation" at **1:00** P.M., both on the date of October 15, **1974**, should be voided because Carrier failed to prefer a "precise charge" in the Notices scheduling the aforesaid proceedings.

(b) Carrier's action in dismissing former Scrap Cutter George W. Johnson effective at the end of a tour of duty on October 22, **1974**, because the assessment of the aforesaid total of 60 demerits resulted **in** an accumulation of more than **90** demerits on his record, was arbitrary, capricious and an abuse of authority.

(c) Carrier now **be** required to **clear** Mr. Johnson's record of the here disputed **60** demerits, reinstate him to its service with **seniority** and all other employment rights unimpaired, and compensate him at the pro rata Scrap Cutter's rate of pay for each working day subsequent to October 22, **1974** and until the effective date of his reinstatement.

OPINION OF BOARD: The issue in this case is, for all intents and **purposes**, the same as that considered in Award **21458** with the additional factor-that the **60** demerits assessed **herein when** added to the **60 demerits previously** assessed, totaled more than **90** demerits, which resulted in **Claimant's** discharge.

It is apparent from a thorough review of the record presented herein, Claimant simply did not desire to work for this Carrier, except at his own convenience. The totality of his conduct since his employment unmistakably reflects this attitude.

Under these circumstances, we are satisfied that Carrier's **action** in assessing discipline of discharge was warranted and we will not disturb it.

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

That the parties waived oral hearing;

That the Carrier and the **Employes** involved in this dispute are respectively Carrier and **Employes** within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute **involved** herein; and

That the **Agreement** was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 18th day of **March 1977**.

