

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22370
Docket Number CL-22458

George S. Roukis, Referee

**(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employes
(
(Northwestern Pacific Railroad Company**

PARTIES TO DISPUTE:

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(GL-8544) that:

1. The Northwestern **Pacific Railroad** Company violated the **Clerks' Agreement** extant when it dismissed **employee C. M. Barker** from service **on July 21, 1976**, and,

2. **The** Northwestern Pacific Railroad Company shall **ww** be required to restore Mr. **Barker** to service with seniority unimpaired, **full** insurance benefits, hospitalization, all fringe benefits to **which** he is entitled; and to allow compensation for eight **(8)** hours at the rate **of** his position each **work** day beginning **July 14, 1976**, and continuing each such day thereafter until restored to service with **all emoluments** above set forth.

OPINION OF BOARD: Claimant was discharged for Insubordination following an Investigative hearing held on July 20, 1976. He was later reinstated on March **18, 1977**, but denied compensation for time lost during the discharge interval.. It is this claim that is **presently** before us.

Extensive evidence was adduced at the hearing which clearly established that Claimant defied his supervisor's instructions to remain at his post during a time when **Claimant** had desired to be off to attend a religious **conference**. The supervisor's instructions were explicit and unambiguous, and **Claimant** offered no excuse for disobeying them other than that he desired to attend a religious conference.

Our review of the transcript finds no procedural irregularities which might suggest that Claimant wasn't afforded a fair and impartial hearing. On the **contrary, Claimant** had the opportunity to testify at length and present a comprehensive defense. Moreover,

there is **no** evidence of **prejudgement** of Claimant's **guilt** by those Carrier officials involved **in** both the **handling** of the case and the investigation.

Accordingly, based upon our thorough appellate examination of the record, we find **no** basis to alter or disturb the approximately nine (9) month disciplinary suspension **Claimant** actually served for his **insubordinative** act. The penalty was neither arbitrary **nor** excessive **wher** measured against the **particular** circumstances of this case. We will thus deny the claim.

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 30th day of March 1979.

