

Award No. 16301
Docket No. CL-16604

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Bernard E. Perelson, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6165) that:

(1) Carrier violated the provisions of the effective Clerks' Agreement when it notified Claimant A. E. Larsen, following an investigation, that he was assessed a ten-day actual suspension, effective Friday, November 26, 1965, and also that at the expiration of this period, he would be disqualified from holding any clerical position in Ticket Offices.

(2) (a) Carrier shall now be required to compensate Mr. A. E. Larsen for all wage loss sustained because of the ten-day suspension period from November 26 to December 5, 1965, inclusive, and

(b) Carrier shall further be required to compensate Mr. A. E. Larsen for all wage loss sustained by reason of his disqualification on the position of Ticket Clerk, commencing with December 6, 1965 and continuing until such time he is permitted to return to ticket clerk work.

OPINION OF BOARD: Following a fair and impartial investigation, Claimant, while on duty as Ticket Clerk at Spokane, Washington, November 7, 1965, was found guilty of failure to sell available sleeping accommodations on Train No. 26, that date, to four passengers destined Missoula, Montana, as well as failure to contact these persons concerning the availability of additional accommodations that became available even though such patrons were in the station at Spokane until arrival of Train No. 26. For his responsibility he was assessed ten (10) days' actual suspension from November 26, 1965 up to and including December 5, 1965, and at the expiration of such period disqualified from holding any clerical position in ticket office.

Subsequent to the dispute being docketed with this Board, the parties mutually agreed that the claim for wage loss commencing with December 6, 1965, as stated in paragraph 2 (b) of the Statement of Claim, was terminated as of October 13, 1966.

The Organization does not contend that the Claimant was not in error. The only contention is that the discipline assessed was excessive. Numerous awards of this Board have held that we may not properly reverse or modify the Carrier's disciplinary action unless it has acted in an arbitrary, capricious or discriminatory manner, or where the discipline is so excessive in relation to the offense as to result in an abuse of discretion. None of these factors are present here, and the claim must be denied.

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 Employees involved in this dispute are respectively Carrier and Employees 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of May 1968.