



Award No. 16554  
Docket No. CL-17123

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

John H. Dorsey, Referee

**PARTIES TO DISPUTE:**

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

**SOUTHERN RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6255) that:

(a) Carrier violated the Agreement at Greenville, South Carolina, when it suspended Mr. Marshall L. Bailey from service of the Carrier for ten (10) days, for allegedly mishandling office car No. 10, Train No. 48, Atlanta to Charlotte, departing Atlanta September 17, 1965.

(b) Mr. Bailey shall be compensated at his daily rate for ten (10) days beginning September 18, and ending October 2, 1965, covering the period of time he was held out of service.

**OPINION OF BOARD:** The Claimant was regularly assigned as a yard clerk at Greenville, S. C. On September 17, 1965, he was working as clerk in the Chief Dispatcher's office during the absence of the regular occupant.

On September 18, 1965, he was notified by the Superintendent that he was dismissed from service for issuing erroneous instructions for movement of Office Car from Atlanta, Ga., to Washington, D. C., instead of to the correct destination, Charlotte, N. C., on Train No. 48, departing Atlanta at 8:25 P. M., September 17. On September 22 he requested an investigation under the provisions of Rule 40 of the effective Agreement. Following the investigation, the Superintendent modified the discipline, reducing the dismissal to a fifteen-day suspension. He was out of service without pay for a total of ten work days. The claim before the Board seeks payment for the ten days.

We have reviewed the transcript of the investigation and there is no question as to Claimant being responsible for the error in the handling of the car involved. In fact, he admitted his error. The record does show, however, that he was working the job at the request of the Chief Dispatcher, and the regular occupant of the position who desired to be absent for personal reasons; that he was not too familiar with the duties of the position, and he claims that the unusual amount of work on the job contributed to the error.

The Claimant had been in Carrier's service since December 4, 1941, and there is no showing of any prior discipline.

Based on the entire record, we do not find the Claimant blameless; but, in our opinion, the discipline imposed was unreasonable under the circumstances involved. We will sustain the claim to the extent of allowing Claimant pay for five of the ten days that he lost.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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 discipline imposed was excessive.

#### **AWARD**

Claim sustained to the extent that Claimant be allowed pay for five days.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of THIRD DIVISION

**ATTEST:** S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of August 1968.