

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19336  
Docket Number CL-19495

Arthur W. Devine, Referee

PARTIES TO DISPUTE: ( (Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employees  
(Norfolk and Western Railway Company  
( (Involving employees on lines formerly operated by  
the Wabash Railroad Company)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7038)  
that:

1. Carrier violated the provisions of the Schedule for Clerks, effective May 1, 1953, when on December 11, 1970 it arbitrarily, capriciously and unjustly assessed a five (5) day penalty against Clerk H. C. Billman based on unproven and untrue charges thereby violating the provisions and intent of Rule 28 of the Schedule for Clerks.

2. Claimant shall now be paid for time lost as a result of Carrier's unjust action with interest computed at the rate of one percent compounded monthly.

OPINION OF BOARD: On December 2, 1970, Claimant was notified:

"Please arrange to report to the Superintendent's Office, 200 Carr Street, St. Louis, Missouri, 63102, at 9:00 AM, Monday, December 7, 1970, for an investigation to be held to determine the facts and fix the responsibility, including yours, if any, in connection with your alleged failure to properly protect your assignment for the month of November, 1970.

If you desire a representative of your Organization, and/or witnesses, please arrange for their presence."

Investigation was conducted on December 7, 1970, a transcript of which has been made a part of the record. On December 11, 1970, Claimant was notified by the Superintendent that he was suspended from the service of the Carrier for a period of five days.

The record shows that Claimant was absent from duty eleven days during November, 1970. However, the record does show that he was marked off on those days, apparently by the Chief Clerk or supervisor in charge. Being permitted to mark off by the Chief Clerk or others in charge, there was no proper basis for disciplining the Claimant on charge that he failed to properly protect his

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assignment. We will award that Claimant be paid for the time lost by reason of being suspended from service for five days, but will deny that portion of the claim pertaining to interest.

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 the Agreement was violated.

A W A R D

Claim sustained to extent indicated in Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

E. A. Killen  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of July 1972.