

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20169
Docket Number CL-20194

Frederick R. **Blackwell**, Referee

(Brotherhood of Railway, Airline and Steamship
(Clerks, Freight Handlers, Express and
(Station **Employees**

PARTIES TO DISPUTE: (

(George P. Baker, Richard C. Bond, and **Jervis**
(**Langdon**, Jr., Trustees of the Property of
(Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(GL-7312) that:

(a) The Carrier acted in an unreasonable, arbitrary, capricious and discriminatory manner amounting to abuse of discretion when it assessed a 30 day suspension on P. C. Murphy, Crew Dispatcher, Penn Station, New York, N.Y.

(b) Under the circumstances involved, the discipline was not warranted, and should be voided or reduced to not more than a **reprimand**.

(c) That Claimant P. C. **Murphy** be compensated for wage loss during the period out of service.

OPINION OF BOARD: The Petitioner seeks to have a 30 day suspension voided or reduced to a reprimand. The suspension was issued after hearing and findings of guilt on the following charge:

"Failure to enter conductor's vacancy job NH 39 on conductor's board when S. **J.** Hansen, Passenger Conductor reported disabled for duty at **12:05** P.M. on May 9, 1972, resulting in 49 minutes delay to Train No. **11**."

In determining the quantum of discipline after the hearing, the Carrier considered Claimants record of four prior reprimands and one seven (7) day suspension.

The hearing record shows that, on May 9, 1972, the Claimant was assigned as a Passenger Crew Dispatcher, 8 a.m. to 4 p.m., Pennsylvania Station, New York, New York. At about **12:05** p.m. the Claimant received a mark-off phone call from the Conductor assigned to Train No. 11 which had a reporting time of **12:30** a.m. on May 10, 1972. The Claimant noted the vacancy on a scratch pad, but failed to enter it on the regular work sheets provided for recording such information. His handling of the matter, the Claimant conceded, **was** a failure to carry

out the regular procedures for recording a vacancy to be filled from the Conductors Board. At the conclusion of the testimony, one of Claimant's Representatives stated that Claimant accepted responsibility for the vacancy being Left off the regular work sheets; however, it was asserted that extenuating circumstances existed in that Claimant had been fatigued by the abnormally heavy work burden which he carried prior to and at the time of the incident. It was specifically noted that, in the 25 days preceding the **incident**, the Claimant had worked 264 hours **as** compared to 136 hours called for by his regular assignment. **Also**, the error occurred while he was covering the work of another Crew Dispatcher, during the latter's lunch period and in addition to his own duties.

In its Submission the Petitioner contends that, in light of the extenuating circumstances, and the Claimant's 21 years of service with only four minor infractions on his record, the 30 day suspension was excessive. No issue has been raised, either on the property or in the Petitioner's Submission, with regard to Claimant's guilt.

We have given careful consideration to Petitioner's contention, but, on the whole record, we find it not sufficiently compelling to disturb Carrier's action. As the Carrier's Submission points out, the Claimant received the mark-off phone call at **12:05** p.m. and, thus, he had until his tour of duty ended at 4:00 p.m. to enter the vacancy on the regular work sheets. So, even though Claimant was covering his own and another **Crew** Dispatcher's duties during the Latter's lunch period, he had ample time to record the vacancy after the Lunch period **was** over. We also note that, although Claimant's Representative stated that Claimant was fatigued from abnormally heavy work, the Claimant **himself** gave no testimony **to** support such conclusion or otherwise indicated that such work influenced his failure to record the vacancy. Finally, in regard to **Claimant's** prior record, since the prior infractions ate not 80 **palpably** insignificant as to be called "minor", we conclude that this facet of the case affords no ground for disturbing the Carrier's action. Accordingly, we shall 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 **Employees** involved in this dispute are respectively Carrier and **Employees** within the meaning of the Railway Labor Act, as approved June **21, 1934**;

Award Number 20160
Socket Number CL-20194

Page 3

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

The Agreement was not violated.

AW 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 15th day of March 1974.