

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21528
Docket Number CL-2143

William G. Caples, Referee

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

PARTIES TO DISPUTE: (

(The **Belt** Railway Company of Chicago

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-8041, that :

1. The Carrier violated the effective Clerks' Agreement when it arbitrarily and capriciously assessed Clerk H. Bentley discipline in the form of a sixty (60) day suspension from service despite the **fact** that the investigation conducted on November 5, 1974, failed to sustain the charges placed against him.

2. The Carrier shall now be required to clear Clerk H. Bentley's record of any charge.

3. The Carrier **shall** now be required to compensate Clerk H. Bentley for all wage loss suffered as a result of his suspension from Carrier service.

OPINION OF BOARD: The Claimant, a clerk, received a letter from the Trainmaster, dated November 1, 1974, which advised him:

"To arrange to report to the **Trainmaster's** office . . . on November 5, 1974, for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with Yard Clerk, T. **Condon**, being absent from duty in the East Yard and leaving the property beginning at about 9:05 p.m., October 22, 1974 while he was working a 3:00 p.m. to 11:00 p.m. extra clerical assignment.

If you desire a representative, please arrange."

An investigation was held on the date noticed, and testimony there produced showed Claimant on October 22, 1974 had been **assigned a** designated work position from 3:00 p.m. to 11:00 p.m. "in the East **Yard Office.**" An extra yard clerk had been called for the **same** place and hours to assist Claimant with the clerical work as several extra yard crews had been **called** to work **in** the East Yard the night of October 22, 1974.

At 9:05 p.m., the **Trainmaster** and the Road Foreman of Engines entered the East Yard Office and found Claimant working alone. On inquiry as to the whereabouts of the extra clerk, testimony showed Claimant said "he had sent him" the extra clerk, Condon "home" **and** Claimant would accept all responsibility and "that he did not want to see **Mr. Condon** get into any trouble." **There** is no evidence Claimant reported **Condon** had left; there is evidence **Condon** filed for 8 hours pay.

Claimant was assessed discipline of 60 **days'** suspension for responsibility in connection with another employe being absent from duty and leaving the property some two hours in advance of the end of his duty.

The record discloses Claimant is an experienced **employe** and it is reasonable to **assume** that if he did not in fact know, he should have **known, he** had not the authority as a yard clerk to let a fellow clerk go home before the end of his tour of duty. Assessment of discipline is justified on the record.

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

The Agreement was not violated.

Award Number 21528
Docket Number Cl-21431

Page 3

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated et Chicago, Illinois, this 19th day of May 1977.