

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **21814**
Docket Number CL-21820

Don Hamilton, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station **Employees**
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation
(Former **Penn** Central Transportation Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(m-8207) that:

(a) The Carrier violated the Rules Agreement, effective February 1, 1968, particularly Rule 6-A-1, when it assessed discipline of Dismissal **on** Claimant, **J. Zeranti**, Clerk, **Kenmore** Yard, Buffalo, New York.

(b) Claimant **Zeranti's** record be cleared of the charges brought against him on April 21, 1975.

(c) Claimant Zeranti be restored to service with seniority and all other rights unimpaired, and be compensated for wage loss sustained in accordance with the provisions of Rule 6-A-1(h), plus interest at 6 per cent (6%) per **annum**, compounded daily. Claimant also to be made whole for any money he was required to spend for medical and hospital services, or other benefits which would otherwise have been covered under Raveler's Group Policy **CA** 23000.

OPINION OF BOARD: **This** is a discipline case involving a charge of theft of merchandise by Claimant and others from a railroad car in interstate **shipment** at approximately 2:00 A.M., April April 19, 1975 at Harriet, N.Y. The Claimant was dismissed from the service of the Carrier. This petition represents **an** appeal from the decision of the Carrier upholding the discipline.

The questions presented **are whether** there was substantial evidence submitted by Carrier in the course of the trial to establish proof of the charges and whether the Carrier acted without bias or prejudice in assessing discipline of dismissal.

Based on an examination of the record and the presentation of the **case, we** are convinced there was **ample** evidence to support the charge. The testimony of Police Inspector Yost was particularly illuminating, as was the affidavit submitted by the Special Agent of the F.B.I. Under **the** circumstances, we find **no** fault with the degree of discipline assessed by Carrier in this case.

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;

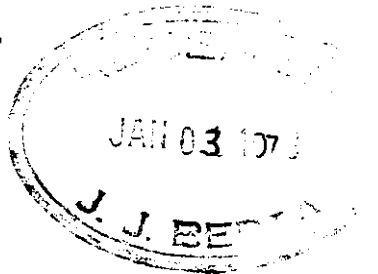
That the Carrier and the **Employees** involved in this dispute are respectively Carrier and **Employees** within the meaning of the Railway Labor Act, as approved June 21, 1934;

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

The Agreement was not violated.

A W A R D

Claim denied.



NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 16th day of December **1977.**