

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22009  
Docket Number CL-21932

George S. Fbukis, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
GL-8284, that:

(a) The Carrier violated the Rules Agreement, effective February 1, 1968, particularly Rule 6-A-1, when it assessed discipline of 60 days suspension on Paul Zozula, Clerk, Pittsburgh, Pennsylvania.

(b) Claimant Zozula's record be cleared of the charges brought against him on November 4, 1975.

(c) Claimant Zozula be compensated for wage loss sustained during period out of service.

OPINION OF BOARD: We have carefully reviewed the investigative transcript to ascertain thoroughly the specific facts and circumstances attendant to Carrier's serious allegations, procedural inquiry and final disposition. Firstly, Petitioner's assertion that the November 12, 1975 hearing was unfair is without meritorious standing. We have found nothing in the documentary submission to substantiate this contention.

The proceeding was conducted consistent with the requirements of acceptable due process, thus permitting claimant ample and sufficient opportunity to present arguments and proofs germane to his position. However, we do find that while explicit examples of repetitive overpayment for work not performed were unmistakably demonstrated during the claimed three (3) year period, the burdensome workload obligations of his position might have contributed to his dereliction. But we must caution that this observation is only a presumption, not a compelling finding of fact.

**Certainly**, this Board has never shown **a cavalier** indifference to blatant wrongdoing, **particularly**, as in this case where **payroll** records were **improperly tampered with and administered**. We are confident that Carrier acted prudently and **responsibly** in its determination.

But we do think that Claimant's actions stemmed significantly from his incompetence and inability to perform the essentials of his job. **The** Board agrees with Carrier's recognition that **Claimant's** long tenure in this industry warrants the restrained penalty imposed and accordingly will not disturb it.

**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 not violated.**

**A W A R D**

Claim denied.

  
NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of April 1978.