

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 22062  
Docket Number CL-22114

Louis Yagoda, Referee

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

**PARTIES TO DISPUTE:** (

(Soo Line Railroad Company

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood  
GL-8397, that:

(1) Carrier's action in the dismissal from service of Mr. Eugene F. Hoertsch effective September 15, 1974, reduced to a period of suspension with subsequent reinstatement to the service June 10, 1975, in Seniority District No. 33, St. Paul, Minnesota, was unjust, arbitrary and capricious.

(2) Mr. Eugene **F.** Hoertsch shall have his record cleared of any and all charges which may have been placed against him because of this arbitrary discharge; and reduced discipline of suspension.

(3) Mr. Eugene F. Hoertsch shall be reinstated to the service of the Carrier on the position of Chief Clerk with seniority and other rights unimpaired.

(4) Mr. Eugene F. Hoertsch shall be compensated for all wages and other losses sustained at the rate of pay of the position of Chief Clerk in St. Paul, Minnesota, account of this arbitrary suspension.

**OPINION OF BOARD:** Claimant in this case was dismissed from service on **September** 15, 1974 **following** a hearing which was held "in connection with irresponsible performance of duties . . . to the extent of mishandling of station records, funds, correspondence, waybills, reports and general station supervision." On appeal, claimant was reinstated to service on June 10, 1975 with no pay for time lost. The dispute in this case concerns the demand for compensation for lost wages during the period that claimant was out of service.

The scope of this Board's review in discipline cases is well defined. " \* \* \* Our function is but to pass upon the question whether, without weighing it, there is some substantial evidence in the record to sustain a finding of guilty. \* \* \* " (Award No. 16074 - **Perelson**). See also 21299, 21290, 21236 and 5032 among others.

Based on our review of the voluminous record in this case, there is substantial evidence to support Carrier's determination that claimant was guilty as charged. From the record, there were no valid mitigating circumstances evidenced which would exonerate claimant from his duty and responsibility in this situation. Carrier's consideration of his long years of service was evidenced by their reinstatement of claimant to service after 9 months. Such action is clearly within the managerial discretion of the Carrier and, in our opinion, was not capricious or arbitrary. The **claim** is therefore denied.

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:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 12th day of May 1978.