

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22259
Docket Number CL-22185

Louis Yagoda, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station **Employees**
PARTIES TO DISPUTE: (
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
GL-8458, that:

1. Carrier violated the current agreement rules, particularly **Rule 21**, when **it** assessed **Mr.** Steven Becker, Order Filer at Proviso Yard, with a sixty (60) day suspension account of investigation held on April 20, 1976, and then subsequently held another investigation on April 30, 1976, which resulted in his dismissal from **service**, and;

2. Carrier **shall** compensate Mr. Steven Becker for all time lost **commencing** May 7, 1976 until he is restored to **service** with all rights unimpaired, with the rate and work of his regular position used to determine the actual loss.

OPINION OF BOARD: This claim is a combination of two separate disciplinary actions taken by Carrier against the Claimant, one a charge of failing to protect his assignment on April 14, 1976, the other for use of profane language toward his superior on April 21, 1976, and failure to protect his **assignment on** April 23, 1976.

After investigations, Claimant was given a sixty-day suspension for the April 14th infraction charged against him and then was dismissed for the incidents occurring on April 21 and 23, 1976.

The transcript of investigation, which culminated in the sixty-day suspension, establishes as a fact that Claimant absented himself without permission April 14, 1976, after being advised by the Chief Clerk he would have to protect his assignment. He had previously been warned about this problem without correction. The Claimant asserted he had a throat infection and it was agreed that the trial record would be held open awaiting a doctor's report, which Claimant agreed to obtain. The doctor's report was never submitted.

We find no basis for intervening in and upsetting Carrier's exercise of managerial discretion on the assessment of sixty days' discipline for the April 14th infraction.

In reference to the incidents occurring on April 21 and 23 respectively, we must conclude the transcript contains sufficient evidence to warrant the conclusion reached by the Carrier that Claimant was guilty as charged and in the light of his previous derelictions, the assessment of dismissal was in order.

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 14th day of December 1978.