

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22712  
Docket Number CL-22701

John J. Mangan, Referee

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

PARTIES TO DISPUTE: (

(Illinois Central Gulf Railroad

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-8639) that:

(a) Carrier violated the Agreement when it suspended and disqualified Mrs. Joan McClure from the service of **the Carrier for thirty (30)** calendar days, **commencing 4:30 P.M.**, January 22, 1976, for failing to supply Form 1703, Report of Ballast received on the Missouri Division, and Form 1116, Report of Ballast unloaded on the Missouri Division, to the **office** of Engineer, Maintenance of Way, Chicago, Illinois

(b) Carrier **now** be required to pay Claimant Joan McClure for all time lost as a result of suspension from the service of the Carrier for thirty (30) calendar days,

(c) Carrier now be required to lift the disqualification of **Claimant** Joan McClure from the position of Secretary to **the** Division Engineer, Position No. **104K**.

OPINION OF BOARD: Claimant was a secretary to Carrier's Division Engineer at Bloomington, Illinois. On January 6, 1976 she was charged with four counts of failing to perform certain duties assigned to her position. An investigation was held on January 16, 1976 at which **the** charges against Claimant were extensively reviewed, Claimant was represented at the investigation by two union officials. Testimony was given and evidence offered in Claimant's defense. After the investigation was concluded, Claimant was disqualified from her position as secretary to the Division Engineer and additionally given a thirty-day suspension from service.

We have carefully reviewed the transcript of the investigation as well as **the** entire record submitted by the parties. **Our** review fails to find that any of Claimant's substantive procedural rights were violated.

We also find **that** there is adequate testimony in the record to demonstrate **that Claimant** did not properly **perform** the duties of the position to which assigned. There is no question **that** the Claimant failed to submit certain required reports for approximately eight months. Upon learning of this failure, two **supervisors** from the Carrier's Chicago office travelled to Claimant's work location specifically for the purpose of helping her complete the delinquent reports and instructing her in their preparation in the future. Less than two months later the reports were again delinquent. Such conduct requires correction.

Carrier disqualified Claimant from her position. Carrier also suspended Claimant from service for a thirty-day period. The disqualification from service **presumably** was predicated on the assumption that at the time of disqualification Claimant lacked the **fitness** and ability to perform the work of her position. Under the **circumstances** of this case and the record **made** at the investigation, this would be an appropriate discipline. The thirty-day suspension is another matter, especially when it is coupled with **the** disqualification. **Under the** circumstances of this case, we are inclined to view **the** thirty-day suspension as excessive. We will order that the suspension **be set** aside and **Claimant** be paid for wage losses sustained during **thattime** less appropriate deductions for outside earnings as provided **in the** parties' agreement.

**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 discipline was excessive.

A W A R D

Claim sustained to the extent indicated **in** the **Opinion**.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By **Order** of Third Division

ATTEST:

A. W. Paulos  
Executive Secretary

Dated at Chicago. Illinois. this 11th day of January 1980.