

NATIONAL RAILROAD **ADJUSTMENT** BOARD

**THIRD** DIVISION

Award **Number** 22717  
Docket **Number** CL-22492

**James F. Searce**, Referee

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

**PARTIES TO DISPUTE:** (   
(Norfolk and Western Railway Company

**STATEMENT OF CLAIM:** Claim of the System **Committee** of the Brotherhood  
(GL-8538) that:

1. Carrier acted **in** an arbitrary, capricious, unjust and discriminatory **manner** when on August 31, 1977, it assessed a thirty (30) day actual suspension against Cleaner **Sebron S. Vannoy**, said suspension beginning September 1, 1977, and ending September 30, 1977.

2. Carrier shall now be required to compensate Cleaner S. S. **Vannoy** for all time lost from September 1, 1977, through September 30, 1977.

3. Carrier shall further be required to pay Cleaner **S. S. Vannoy** interest in the amount of ten (10) per cent **compounded** annually on the anniversary date of this claim.

**OPINION OF BOARD:** The record for this case leaves little to doubt that the Claimant directly and repeatedly refused to complete a work assignment -- to clean up a dirty restroom -- which was properly within his responsibility; such order was properly issued. The **grievant** contends he left the job unfinished to draw attention to the situation; he did so, but certainly not as intended. The Claimant suggests discrimination -- a charge unproven. While we might share the Claimant's disgust for the poor latrine habits of fellow **employees**, we suggest he is on perilous ground **to** refuse what must be considered a clear directive to perform his assigned duties -- no matter how odious or odorous. The Carrier cites a prior record of discipline to demonstrate its basis for the extent of the discipline. We note the last such discipline was five years past and none for the type of offense as **committed** here. Nonetheless, the Claimant's blatant insubordination is worthy of the type and extent of discipline meted **out** here. Perhaps **the** Claimant's inopportune and chancy decision to draw attention to this problem accomplished its purpose -- but we suggest that a recurrence of such activity might result in a **more** lasting impact upon his employment status.

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 is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A.W. Paulose  
Executive Secretary

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

