

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22853
Docket **Number** CL22730

George S. **Roukis**, Referee

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

PARTIES TO DISPUTE: (

(St. Louis-San Francisco Railway Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (**GL-8705**)
that:

1. The Carrier acted in an arbitrary, capricious and unjust **manner** and violated the **agreement** between the parties when on March 22, 1978 it suspended Clerk R. M. **Midles** from the service of the Carrier for a period of ten (10) working days effective **March** 23, 1978.

2. In view of the foregoing arbitrary, capricious and unjust action of the Carrier, it shall now be required to:

- (a) Restore Clerk **Midles** to service of the **Carrier** with all seniority, vacation and other rights unimpaired.
- (b) Pay Clerk **Midles** for all **time** lost **commencing** with March 23 and continuing until April 6, 1978.
- (c) Pay Clerk **Midles** interest at the rate of **10%** on the amount claimed under (b) above.
- (d) Clear Clerk **Midles'** record of all charges.

OPINION OF BOARD: Claimant was given a ten (10) day suspension following an investigation held on March 21, 1978 to determine his responsibility for allegedly failing to identify himself properly when arranging to lay off about **4:35** A.M. on March 3, 1978. **He** was specifically charged with violating Rule 702 of the Transportation Department Rules which is hereinafter referenced **in** pertinent part,

"**Employees** who are negligent or indifferent to duty
will not be retained in the service."

This disposition was appealed on the property pursuant to **Agreement** Role 49 and is presently before us for appellate consideration.

In reviewing this case, particularly the transcribed recording of Claimant's telephone conversation with Caller Jessie Thompson, we do not find a scintilla of evidence that Caller Thompson **knew** she was speaking to Clerk **Midles**. He was initially unaware of her identity as he thought she was a person named Judy and he did not correct the mistaken impression that he was "**Lonnie**", despite the fact that she referred to **him** by this name three **times**.

It **may** well be that the ear drops and cotton, which he contends he inserted in his ears a few hours earlier, affected his auditory acuity but the record unmistakably shows that he understood the dialogue that took place.

If Caller Thompson knew his precise identity, there would not have been any need to keep the third shift position working past the relief time and the concomitant **overtime** expense. **Claimant was** under an obligation to identify himself properly and he failed to meet **this** fundamental employment requirement. His failure resulted in unwarranted confusion and expense.

The record substantially supports the conclusion that he violated Transportation Department Rule 702 (**supra**) and the penalty imposed was not unreasonable when the nature of the infraction is considered. We will deny the claim.

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 16th day of May 1980.