

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number **23143**  
Docket Number CL-22837

Robert A. **Franden**, Referee

**PARTIES TO DISPUTE:** (Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express **and** Station **Employees**  
(The Chesapeake and Ohio **Railway** Company

**STATEMENT OF CLAIM:** Claim of the System **Committee** of the Brotherhood (GL-8718)  
that:

(a) The Carrier violated the Clerks' General Agreement when they administered discipline of thirty (30) days actual suspension against **Claimant** William D. Gipner as a result of hearing held on December 3, 1975.

(b) **Claimant** Gipner to be **made** whole for all wages **and** wage equivalents lost as a result of this discipline **and** his record be **made** clear of any discipline entry.

**OPINION OF BOARD:** Claimant was suspended from the service of the Carrier for thirty (30) days after having been **found** guilty of being insubordinate by reason of his failure to report to the office of Mr. W. C. Short, Terminal Train **Master**, as instructed. Said discipline was assessed after investigation properly held pursuant to sufficient notice.

The transcript of the investigation in the instant case reveals that Claimant was instructed to report to the office of the Train Master at **3:25** p.m. **on** November 25, 1975, and that, in fact, he did not report to the Train Master's office until approximately **4:15** p.m. There is also evidence in the record that during the period of **time** between the time he was requested to report and when he did in fact report, the Claimant was on the phone performing the functions of his position. From a thorough review of the transcript, **we** are unable to conclude that the Carrier was incorrect in its finding that the length of time taken by Claimant to report as instructed was excessive and did, in fact; **amount** to insubordination. Given all of the circumstances of the case, however, it appears to us that the discipline assessed by the Carrier in the instant **matter** was excessive. Accordingly, we hold that Claimant should be compensated for all **time** lost in excess of a **suspension** of ten (10) days.

**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** in accordance with the **Opinion**.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: \_\_\_\_\_



Executive Secretary

Dated at Chicago, Illinois, this **30th** day of **January 1981**.