

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

'Award Number 23375
Docket Number MS-23539

John B. LaRocco, Referee

PARTIES TO DISPUTE: { **Richard** F. Ogden
{ **Consolidated Rail** corporation

STATEMENT OF CLAIM: "1. My discipline of 20 **days** deferred suspension for quote improper **submittal** of payroll cards for **payment** to J. **Ahner**, Yard Master July 5, 7 August 2, 4, 1978; J. **Windrem**, Yard Master, August 5, 1978, W.F. Meith, July 8 August 3, 6, 1978 causing **ad-ditional** expense to Conrail while you were on duty es Clerk Steno at Oak Island, Newark, New Jersey; end violation of failure to abide by Bulletin Number 14 dated 8/1/77 was in violation of the collective **bargaining** agreement.

2. That my record should be cleared of the 20 day deferred suspension as per collective bargaining agreement."

OPINION OF BOARD: **Claimant was charged** with improperly performing his duties on July 5, 7 and 8, 1978 and August 2, 3, 4, 5 and 6, 1978. Specifically, the Carrier alleged that **claimant**, without authorization, submitted **payroll** cards, which caused the Carrier to pay certain **yardmasters** eight additional hours of **straight** time **pay** for weighing cars (though the **yardmasters** actually worked only eight hours). The Carrier also charged the **claimant** with failure to obey written instructions contained in Bulletin No. 14 dated August 1, 1977. On September 8, 1978, the Carrier sent the claimant notice to attend an **investigation** which was duly held on September 20, 1978. As a result of the investigation, the Carrier assessed a twenty day deferred suspension against claimant.

The **claimant** has raised 8 plethora of procedural objections regarding **the timeliness** and substance of the notice of **charges**. After reviewing these objections, we find they are without merit. The Investigatory process was **commenced** within the appropriate time limits since the Carrier did not learn of claimant's alleged offenses until, at least, August 10, 1978. The notice of Investigation was sufficiently precise in apprising claimant of the charges brought against him.

On the merits of the claim, the **employee** contends that he was merely performing the ministerial act of recording the number of hours set forth on the **yardmasters'** time sheets in the appropriate **space** on the **payroll** time cards. The claimant disavows all responsibility for inaccuracies on the time cards asserting that this dispute is really between the Carrier and the **yardmasters**. The **Carrier** maintains that claimant is responsible for **accurately** reporting the hours and any wage claims must be approved by the **appropriate**

Carrier officer before the claimant submits the time cards, According to the Carrier, the claimant knew that the yardmasters worked just **eight** hours on the days in question end so the recording of an additional eight hours (for weighing cars) on these days was improper unless claimant procured the prior approval of a **Carrier official**. **Lastly**, it is **argued, claimant** cannot possibly be guilty of improperly submitting time cards for August, **1978**, since **claimant** had transferred to another position on July **26, 1978** end did not even sign the August time cards. The Carrier submitted evidence showing that while **claimant** did not sign the August time cards, he nevertheless filled **in** the hours because he was teaching his successor how to perform the work.

The claimant had the responsibility to properly end **accurately** report the **yardmasters'** hours on the time cards. According to his **written** instructions, he had no authority to report hours beyond those actually worked without the express approval of the appropriate Carrier official. **A review** of the record convinces us that there **is** substantial evidence proving **claimant** knew that the **yardmasters** had not worked the additional eight hours on the dates in question end he failed to procure proper **authorization** to report the additional eight hours on July **5, 7 and 8, 1978**. **Claimant did testify** that he received **authorization** to report some of the additional hours but, inexplicably, he could not identify the Carrier **official** who **made** the euthorisation. Claimant's actions were clearly contrary to his written instructions.

In addition, claimant continued to be primarily responsible for improperly submitting payroll cards in August, **1978** even though he no longer occupied the timekeeper position. The **claimant's** successor, seeking **assistance** in learning her new job, observed the claimant **as** he completed the hours on the August time cards. Thus, claimant was still performing timekeeper functions after July **26, 1978**.

Giving the gravity of claimant's offense end the problems it caused the **Carrier**, we find no justification for upsetting the Carrier's **assessment** of discipline. We recognize **that** claimant had 8 good **prior** work record but 8 twenty day deferred suspension is reasonable when the seriousness of the offense is balanced against the **claimant's** work record.

FINDINGS: **The Third Division of the Adjustment Board, after giving** the parties to **this** dispute dw notice of hearing thereon, and upon **the whole record and all the evidence, finds and holds:**

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**;

Award Number **23375**
Docket Number MS-23339

Page 3

That this Division of the Adjustment **Board** has jurisdiction over the dispute involved herein; end

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. Paulsen*
Executive Secretary

Dated at Chicago, Illinois, this 15th day of September 1981.