

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23394
Docket Number CL-23000

Robert A. Franden, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
PARTIES TO DISPUTE: (
(Elgin, Joliet and Eastern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8861) that:

1. Carrier violated the effective Clerks' Agreement when,
following an investigation on August 18, 1978, it suspended Clerk L. A. Clark
from service for a period of five days without just cause;

2. Carrier shall now compensate Clerk L. A. Clark for all time
lost as a result of this suspension from service and shall clear his record
of the charge placed against him.

OPINION OF BOARD: Claimant was suspended from the service of the Carrier for
five days after having been found to have absented himself
from duty without permission or proper authority on August 9 and 10 of 1978.

It is the position of the Organization that the Claimant properly
reported off and that the Carrier has failed to prove the charge.

While there does appear to be some conflict in the evidence presented
at the investigation, a review of the transcript of the hearing reveals that
substantive evidence of probative value was produced at the hearing to support
the charge and the finding of the hearing officer. It is not our position to
weigh the evidence in the instant matter and substitute our opinion for that
of the hearing officer. We are unable to conclude that the finding of the
Carrier officer was arbitrary and capricious and without foundation and ac-
cordingly, 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: *A. W. Pauls*
Executive Secretary

Dated at **Chicago, Illinois, this 6th day of** October 1981.

