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J. J. R.

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23889
Docket Number CL-24022

Ida Klaus, Referee

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

PARTIES TO DISPUTE: (Chicago, Milwaukee, St. Paul and Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (GL-9459) that:

1) Carrier violated the Clerks' Rules Agreement at **Bensenville**, Illinois when it assessed a seven (7) day deferred suspension **on March 21, 1980** to **employe P. R. Koziol** without proving the alleged charges.

2) Carrier shall now be required to **remove** the alleged charges, the investigation and the resultant assessed discipline **from Employe Koziol's** personnel record.

OPINION OF BOARD: The Claimant was assessed a seven-day deferred suspension for failing to comply **with** instructions governing damage to a company vehicle.

The Organization contends that the charges are not supported by the evidence, because the Carrier failed to prove that any damage had in fact occurred or that the Claimant was aware of any damage.

Having reviewed the record, the Board concludes that the charges **are** supported by substantial evidence **of** a probative nature and that the penalty assessed is reasonable. Accordingly, the Carrier's determination must stand, and the claim will be denied.

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 Employes involved in this dispute are respectively Carrier and Employes 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.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this **26th** day of May **1982**.

