

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Ida Klaus, Referee

Award Number 23964
Docket Number CL-23999

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

PARTIES TO DISPUTE:

[Chicago, Milwaukee, St. Paul and Pacific **Railroad** Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9446)
that:

1) Carrier violated the Clerks' Rules Agreement at **Bensenville**, Illinois when it arbitrarily assessed discipline of thirty (30) **days suspension** to **Employee S. A. Lewis**, **having** failed to prove the alleged charges; **beginning** **January 24, 1980**.

2) Carrier shall now be required to clear the record of **Employee S. A. Lewis** of the alleged charges and compensate for all lost time from **January 24, 1980** to and including **February 22, 1980**.

OPINION OF BOARD: The Claimant was assessed a **30-day** actual suspension for failure to protect a company portable radio entrusted to her care.

The **Organization** contends **that** the charges are not supported by the evidence **and** that **the** decision and penalty are not just and reasonable.

Having reviewed the record, the Board concludes that the charges are supported by substantial evidence of a probative nature. Accordingly the Carrier's determination as to them must stand. The Board is of the opinion, however, that the discipline imposed was not justified because it was excessive for the offense charged and found. The Board considers an actual suspension of ten days to be **warranted** in the circumstances. The discipline assessed will be reduced accordingly.

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.

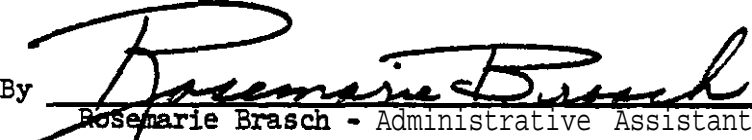
A W A R D

The **claim** is sustained as to discipline imposed. The **30-day** suspension of **Employee** S. A. Lewis shall be reduced to ten days of actual **suspension**, and she shall be **compensated** for all time lost beyond ten days by reason of the **30-day** suspension. Her record shall be modified accordingly.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **Third** Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, **Illinois**, this 16th day of August 1982.

4-10-82
CIR 10-11
10-11-82