

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **24153**
Docket Number CL-24077

Herbert L. Marx, Jr. Referee

PARTIES TO DISPUTE: { (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers. Express and Station Employees
(Chicago, Milwaukee, St. Paul & Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-9407) that:

1. Carrier violated the Clerks' Rules Agreement at **Sturtevant**, Wisconsin when it charged, held investigation and assessed discipline of thirty (30) days actual suspension on February **12, 1980** against employee **L. R. Rosenbaum**.

2. Carrier shall now be required to compensate employee **L. R. Rosenbaum** for all lost time caused by his suspension and remove all mention of the charges, investigation, discipline assessed and subsequent handling from his personal record.

OPINION OF BOARD: Claimant, the regularly assigned occupant of Agent position at **Sturdevant**, received notice of investigative hearing "for the purpose of developing the facts and circumstances-in connection with collision of No. 209 and Motor Car No. 8210 on No. 1 main at **Sturtevant**, Wisconsin at approximately 1:30 p.m. on January 16, 1980".

The Board finds that the investigation notice was clear and precise and that the hearing was conducted in a fair and proper manner. As a result of the investigation, Claimant was advised of the following decision:

"After giving due consideration to testimony developed at investigation held at Milwaukee, Wisconsin, on February 5, 1980 in connection with charges of which you were advised in notice dated January 17, 1980 and as a result of your failure to abide by the track car permit times and for not leaving your signal blocks on your CTC machine, which resulted in collision of train No. 209 and motor car No. 8210 on No. 1 main at approximately 1:30 PM, on January 16, 1980."

Through the Claimant's own testimony, the record shows that the Claimant failed to perform his duties in a proper manner, thus involving him in a degree of responsibility for the collision of the train and the track motor car. The motor car was considered a total loss, although by great good fortune there were no personal injuries.

Once guilt was established, the Carrier properly considered the Claimant's disciplinary record in assessing a penalty. The record shows a waived **formal hearing** and three letters of reprimand.

There is no basis to find that the resulting **30-day** suspension was improper.

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: Acting Executive Secretary
National Railroad Adjustment Board

By *Rosemarie Brasch*
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th **day** of February 1983.

