

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24453
Docket Number CL-24437

Edward L. Suntrup, Referee

(Brotherhood of Railway, Airline and St-hip Clerks,
(Freight Handlers, Express and Station Employees
PARTIES TO DISPUTE: (
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-9538) that:

1. Carrier violated the effective Agreement Roles, particularly Rule 21, when under date of May 14, 1980, it assessed Clerk Eugene Mryszuk, Wood Street, with a sixty (60) day actual suspension account of an investigation held on May 9, 1980, and,

2. Carrier shall now be required to compensate Clerk Eugene L. Mryszuk for all time lost account such suspension, as well as clear his record thereof and to include making him whole for any fringe benefit losses.

OPINION OF BOARD: on May 1, 1980 claimant, Eugene L. Mryszuk was notified to report for formal Investigation on May 6, 1980 to determine his responsibility, if any, for his failure to perform duties which he was instructed to do by letter dated April 20, 1980. After postponement the investigation was held on May 9, 1980. on May 14, 1980 Claimant was notified by the Carrier that he had been found guilty as charged and was assessed a sixty (60) day suspension. After appeal by the Organization on property up to and including the highest designated Carrier official, this case is now before the National Railroad Adjustment Board.

A review of the record shows sufficient substantial evidence to warrant conclusion that Claimant is guilty as charged. Claimant, who held relief position No. 80 on April 20, 1980 at Carrier's Chicago intermodal yard, was instructed by letter on that date by Assistant Superintendent of Intermodal Operations to perform billing work thereafter on certain days of his assignment. Irrespective of certain details related to the accuracy of Terminal Manager Dorsey's audit of Claimant's work of April 30, 1980, which is contested by the Organization, there is no doubt, from the record established that Claimant had time on the day in question to perform more billing work that had been given to him than he did in fact do.

In assessing quantum of discipline Carrier may use past record as guide (Second Division Awards 6632; 8527 inter alia). The role of discipline, however, as the Board has underlined in many prior Awards, is not only punitive but it should also provide corrective and training measures (Third Division Awards 5372; 19037 inter alia). The nature of the infraction in the instant

case and past record considerations lead the Board to conclude that a sixty (60) day suspension was unduly harsh and that a thirty (30) day suspension would be reasonable.

The Board rules, therefore, that the sixty (60) day suspension be reduced to a thirty (30) day suspension, and that Claimant be made whole and compensated, without interest, for all time held out of service during the other thirty (30) days.

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 assessed was excessive.

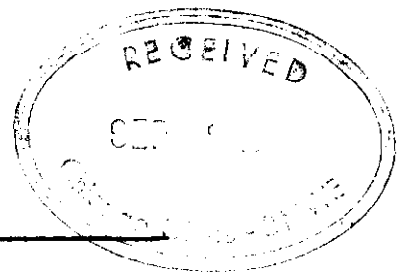
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Claim sustained in accordance with the Opinion.

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 29th day of June 1983.