

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25317
Docket Number CL-25446

Marty E. Zusman, Referee

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

PARTIES TO DISPUTE: {

(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-98341 that:

1. Carrier violated the effective Clerks' Agreement when after investigation and hearing on January 13, 1983, it arbitrarily and capriciously suspended Clerk J. N. Carrano from service for a period of thirty (30) days commencing January 19, 1983;

2. Carrier shall now be required to compensate Clerk J. N. Carrano for all wage loss suffered as a result of his suspension and his record shall be cleared of the charges.

OPINION OF BOARD: Claimant J. Carrano was notified on **December** 31, 1982, to attend an investigation to determine his possible responsibility in a charge of failure. to comply with the instructions of his Supervisor. The hearing was held on January 13, 1983, and the Claimant was notified by letter of January 18, 1983, that he had been found guilty of the charge and was to begin an immediate thirty (30) day actual suspension.

In the instant case with regard to the charge against Claimant, this Board finds sufficient substantial evidence present including the Claimant's own testimony to warrant a conclusion of guilt. During the investigation the Claimant was asked if he understood the order of his Supervisor "that you were to work the train in question". He responded **"Yes, sir"**. And more directly to the point when asked **"You did not work the train?."**, Claimant responded **"No, sir, I didn't"**. Additional testimony substantiates not only the Carrier charge, but also that Claimant received a second order from the Supervisor of Car Operations that Claimant was to follow the orders of his Supervisor. Claimant failed to do so.

Organization's contention that Claimant's response was contextually determined by the Supervisor's abrasive and abusive behavior was, in fact, neither fully established during the hearing, nor would it have had any bearing on the responsibility of Claimant, in the instant case, to carry out his orders. This Board, after carefully reviewing the arguments presented, finds that Claimant Carrano was accorded a fair investigation and was guilty as charged. With respect to the discipline assessed by the Carrier, this Board has many times held that insubordination is an offense for which **an employee** can even be discharged from service (**see** Second Division Award 7643 and Third Division Award 21059). As such, the assessment by Carrier of a thirty (30) day suspension seems neither unreasonable, **nor** capricious and will not be disturbed by this Board.

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 _____ of Third Division

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Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1985.