NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 26451
THIRD DIVISION Docket Number CL-26169

Eckehard Muessig, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerk, (Freight Handlers, Express and Station Employes
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (CL-9951) that:

1. Carrier violated the terms and provisions of the current Clerks' Agreement, particularly Rule 21, when on March 8, 1983, the Carrier issued Discipline Notice No. 13 to D. J. Stafiej, assessing him a 30-day suspension effective with the termination of his assignment commencing at 3:59 P.M. March 9, 1983, after investigation which was held on March 2, 1983.

2. Carrier shall now be required to compensate Mr. D.J. Stafiej for all time lost as a result of the 30-day suspension and that his record be cleared of such entry."

OPINION OF BOARD: Subsequent to an Investigation, the Claimant was found guilty of the charge that he has failed to properly protect his assignment on February 10, 1983, because he reported late for duty that day. Although it is clear that the Claimant did not present himself on time to begin work, the evidence is controverted with respect to how many minutes he was late.

Accordingly, the general issue here is whether, in view of the facts and circumstances of record and the principles applied by this Division in discipline cases, some lesser penalty would be sufficient discipline for the offense committed.

It is well established that the Claimant bears a responsibility to allow sufficient time to travel to work and to be at his work place by the start of his designated shift. In this case, the Claimant reported late because his car broke down close to the Carrier's parking lot. The evidence indicates that his tardiness was caused because he stayed with his car until it was moved from the roadway. The record is devoid of a copy of the Carrier's Discipline Notice #13, dated March 8, 1983. And thus, there is no proper evidence before us to show whether the Carrier used any past proven tardiness by the Claimant to determine the measure of the discipline it finally assessed.

Therefore, on the record properly before us and under all the circumstances shown, while tardiness in the work place must not be condoned. we find a letter of reprimand more commensurate with the single proven offense which, at most, consisted of a few minutes tardiness.

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 discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By *Order of* Third Division

Attest: Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 24th day of August 1987.