

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26606
Docket Number CL-26428

Gil Vernon, Referee

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

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9993) that:

1. Carrier violated Rule 21 of the Agreement when it assessed a twenty (20) day suspension against Ms. Virginia A. Bataille on March 9, 1984, following an investigation that was held on March 7, 1984, and

2. Carrier shall now be required to compensate Ms. Bataille for all wage losses sustained as a result of the twenty (20) day suspension and also compensate her for all wage losses sustained as a result of being required to serve a ten (10) day suspension that had previously been deferred."

OPINION OF BOARD: On March 9, 1984, the Carrier held an Investigation with the Claimant on the following charge:

"Your responsibility in connection with your failure to properly perform your duties while employed as yard clerk, job 038, 11:00 p.m. to 7:00 a.m. February 24, 1984 at Beverly yard; specifically your responsibility in failing to properly mark up CIC cars on track 4 and 3 other cars on track 8."

Subsequent to the Investigation, the Claimant was assessed the 20-day suspension now on appeal with the Board.

After a review of the record, it is difficult not to conclude that the Claimant in fact failed to properly mark-up the cars in question. However, it is equally difficult to believe that her lack of training--as evidenced in the record--did not mitigate her error to some extent.

Thus, while the ultimate responsibility was the Claimant's, the discipline must be viewed as excessive for these circumstances. Therefore, the discipline is reduced to a 10-day suspension and the Claimant shall be compensated 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

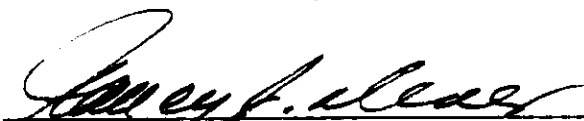
That the discipline was excessive.

A W A R D

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 27th day of October 1987.