

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 26775
Docket No. CL-27544
88-3-87-3-204

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employes
(
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10164) that:

1. The Carrier acted in an arbitrary and capricious manner, without cause and without a fair and impartial hearing or due process, when, on the date of March 31, 1986, it assessed Clerk **L. E. Puckett** a twenty **(20)** day deferred suspension in violation of Rule 27 of the Master Clerical Agreement.

2. As a result of said violation, Carrier shall be required to remove said discipline and compensate Clerk **L. E. Puckett** for any time lost as a result of the discipline and/or investigation.

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the **employee** or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance **at** hearing thereon.

Claimant is employed as an Extra Clerk in Bluefield, West Virginia, with a seniority date of April 25, 1979.

Under the date of March 14, 1986, the Carrier filed charges against the Claimant, which read as follows:

"You are hereby charged with your failure to properly perform your duties as Chief Caller, Bluefield Call Office, Bluefield, West Virginia, in that you failed to call crew for **3NC01** called to report for **7:05 AM**, March 12, **1986**, which resulted in delay to said train."

At the Investigation of the charges, held on March 21, 1986, the **Claimant** was present and represented. On March 31, 1986, Claimant was notified that he had been assessed twenty days deferred suspension for failure to properly perform his duties.

The Organization asserted and argued a number of procedural defects both in the handling on the property and in its submission to this Board. Our review of the record before us reveals that the alleged procedural defects are without foundation and must be rejected. The Investigation was conducted in a fair and impartial manner.

Upon due consideration of all of the evidence in the record, we find that sufficient credible evidence was adduced to support the charges and that a disciplinary penalty is justified. However, we find the discipline assessed to be excessive and award that the twenty **(20)** day deferred suspension imposed upon Claimant be reduced to a ten **(10)** day deferred suspension.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, **Illinois** this 15th day of January 1988.