

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 26776
Docket No. CL-27669
88-3-87-3-130

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station **Employees**
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10158) that:

(a) Carrier violated the current Clerks' Agreement at Albuquerque, New Mexico, when on November 13, 1985, it unfairly and improperly suspended Steve Wujick from service, and

(b) Facts developed at the formal investigation held on October 24, 1985, failed **to** sustain Carrier's alleged charges and did not justify or warrant the harsh penalty imposed, and

(c) Steve **Wujick's** record of suspension along with all accused of rule violations be exonerated and all rights unimpaired and paid for all monetary loss sustained as a result of being suspended **on** November 13, 1985, until and including December 12, 1985, and

(d) Steve Wujick shall be paid an additional twelve per cent per annum until claim is paid."

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.

The Claimant has been employed for a period of eleven years.

Under date of October 15, 1985, the Carrier filed charges against the Claimant. which read as follows:

"You are hereby notified to attend a formal investigation in the office of the Purchasing Agent and Materials Manager, 1100 Second Street, **S.W.**, Albuquerque, New Mexico, at 9:00 **a.m.**, October 24, 1985, concerning your alleged excessive absenteeism during the period July 1, 1984 through October 11, 1985, so as to determine the facts, and place your **responsibility**, if **any**, concerning possible violation of Rules 2, 13, 14, 15 and 16 of the General Rules for the Guidance of Employees, Form **2626-Std.**, issued 1978.

"You may arrange for representation in line with provisions of the Clerk's Agreement, and you may likewise arrange for the attendance **of** any desired witnesses.

"Please acknowledge receipt of one copy of this notice in the space provided below, and return to the undersigned promptly."

At the investigation of the charges. held on October 24, 1985, the Claimant **was** present and represented by the Organization. The investigation was conducted in a fair and impartial manner.

Following the **investigation**, the Carrier found Claimant culpable of the charges. Based upon those findings, the Carrier imposed a suspension of thirty (30) calendar days.

Upon due consideration of all the evidence in the record, we find the evidence sufficient to support the Carrier's charge; however, we find the discipline assessed to be excessive. The thirty **(30)** calendar day suspension shall be reduced to a twenty **(20)** calendar day suspension and the Claimant shall be paid his actual time lost for the period exceeding twenty (20) calendar days. The request for interest is denied.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. **Sever** - Executive Secretary

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