

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30054
Docket No. CL-30688
94-3-92-3-483

The Third Division consisted of the regular members and in addition Referee Robert G. Richter when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International
(Union
(Northern Indiana Commuter Transportation
(District

STATEMENT OF CLAIM: "Claim of the System Committee of the Union (GL-10830) that:

1. Carrier violated the effective agreement when, following an investigation on July 17, 1991, it imposed a suspension of thirty (30) days (fifteen actually served and fifteen on 'record') against Mr. Joe Rzepnicki without just cause;
2. Carrier shall now compensate Mr. Rzepnicki for all time lost as a result of this suspension from service and shall clear his record of the charge placed against him."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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 was the Traveling Porter assigned to Hammond, East Chicago and Gary, Indiana Stations. On June 11, 1991, Claimant was directed to report for an Investigation for the following:

"To determine cause and place your particular responsibility or any violation of rules and instructions or breach of duty in connection

with your allegedly not reporting on time for your assignment, Porter Positions #304, on duty at 7:15 a.m. at Hammond, on Thursday, June 6, 1991 and Friday, June 7, 1991, which is a possible violation of General Rule 'P' of the Operating Rules of the Northern Indiana Commuter Transportation District, and for your allegedly submitting a Time Report, Form C-1 Rev. 1-91, on Friday June 7, 1991, in which you claimed eight (8) hours for Thursday, June 6, 1991 and eight (8) hours for Friday, June 7, 1991 which is a possible violation of General Rule 'K' and General Regulations Rule 701 of the Operating Rules of the Northern Indiana Commuter Transportation District."

Following a mutually agreed to postponement, an Investigation was held on June 17, and as a result, Claimant was given a 30 day suspension of which 15 days were deferred.

The Organization argues that the Claimant was denied a fair and impartial hearing. The basis for their position is that the Hearing Officer had prejudiced the case. A close review of the transcript reveals that the Claimant received a fair and impartial hearing. While the Hearing Officer may have been more artful in the use of his language, there is nothing to indicate prejudgment.

The facts in the case are clear. The Claimant admits being late for work on the dates in question and that he submitted time slips for the full eight hours. This Board finds no basis to overturn the discipline assessed by the Carrier.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Catherine Loughrin

Interim Secretary to the Board

Dated at Chicago, Illinois, this 17th day of February 1994.