

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Arnold Zack, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP
CLERKS, FREIGHT HANDLERS, EXPRESS AND
STATION EMPLOYES**

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6015) that:

(a) Carrier violated the Agreement at Atlanta, Georgia, when it suspended Mr. C. R. Burdett, Rate Clerk, from the service of Southern Railway Company, beginning on December 16, 1964, and ending at Midnight December 30, 1964, on alleged charge of being asleep on the job.

(b) Mr. C R. Burdett shall be compensated for the lost time beginning on December 16, 1964, and ending at Midnight December 30, 1964, at the daily rate of \$22.75 per day, for the unjust suspension from service.

OPINION OF BOARD: On December 15, 1964 Mr. C. R. Burdett was discovered asleep at his desk. After an investigation and hearing he was suspended for dereliction of duty from December 16 through 30, 1964.

Carrier asserts that Claimant was clearly guilty of sleeping on the job, and that the discipline administered was warranted and commensurate.

Organization denies that the Claimant was derelict in handling his job. It asserts that medical investigation has proven that Claimant suffers from narcolepsy, which results in sudden instances of falling asleep. Inasmuch as Claimant was ill, and had no control over his illness, Organization concludes that any disciplinary action was inappropriate.

It is clear that the Claimant in this case is a victim of an unusual illness, the symptoms of which could easily have led the Carrier to conclude that he was derelict in the performance of his duties. Nonetheless, Carrier had sufficient opportunity during its subsequent investigation and sufficient testimony from its own employees to come to the realization that Claimant was in fact ill at the time.

We find that Carrier acted improperly in imposing a penalty of suspension from December 16 to 30, 1964. Accordingly the claim is sustained.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee 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 Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of July 1968.