



Award No. 18105

Docket No. CL-18707

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

**NORFOLK AND WESTERN RAILWAY COMPANY
(Involving employes on lines formerly operated by the
Wabash Railroad Company)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6765) that:

(1) Carrier violated the provisions of the Clerks' Agreement particularly Rule 28, when following investigation held on January 21, 1969, it arbitrarily and without justification dismissed Yard Clerk Robert W. Bouckhout from service.

(2) Carrier shall be required to restore R. W. Bouckhout to his former position as Yard Clerk with all rights and fringe benefits unimpaired.

(3) Carrier shall now pay R. W. Bouckhout eight (8) hours at the pro-rata rate of his former position for January 27, 1969, and for each work day thereafter until he is properly restored to service.

(4) In addition to the money amounts claimed herein, the Carrier shall pay Claimant an additional amount of 6% per annum compounded annually on the anniversary date of claim.

OPINION OF BOARD: The Claimant was dismissed from Carrier's service on January 27, 1969, for failing to protect his assigned working hours on January 6, 1969.

From our review of the record in the case we find that none of Claimant's substantive procedural rights were violated. The investigation conducted on January 21, 1969, contained substantial evidence in support of the charge. Some discipline was warranted; however, the offense was not serious enough to warrant dismissal. An actual suspension of thirty days would have been adequate penalty for the offense. We will, therefore, award that Claimant be restored to service with seniority and other rights unimpaired, and with pay for all time lost except for the first thirty days out of service. Part 4 of the claim will be denied.

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 Agreement was violated to the extent indicated in Opinion.

AWARD

Claim sustained to the extent indicated in Opinion and Findings.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of September 1970.