

**Award No. 18946**

**Docket No. CL-19117**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**William M. Edgett, Referee**

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**PARTIES TO DISPUTE:**

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

**THE BELT RAILWAY COMPANY OF CHICAGO**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6889) that:

1. The Carrier violated the Clerks' Agreement when on March 4, 1970 it suspended Clerk Montelo from actual service for a period of five (5) days.

2. Clerk Montelo shall now be compensated for wage losses sustained and his record cleared of the alleged charge, as well as interest payment at the current rate, on the amount of reparations due.

**OPINION OF BOARD:** Claimant was absent from February 24, 1970 to February 26, 1970. He did not call Carrier to report his absence and was suspended for five days by Carrier for his failure to comply with a rule requiring him to report his absence on a daily basis.

During the period in question Claimant was incarcerated. At the investigation he produced a letter from his attorney to establish that fact. Claimant stated that he had been unable to call Carrier. However, he offered no proof that he was prevented from calling, or that he had been unable to have someone call for him. His attorney did not state that it was not possible for him to contact Carrier, his statement verified the incarceration but did not deal with the question of making contact with Carrier.

Carrier's disciplinary measure was not arbitrary, capricious or an abuse of its discretion. The Board will not overturn it.

**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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: E. A. Killeen  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of January 1972.