

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20023

Docket Number CL-19884

Joseph A. Sickles, Referee

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-7147)
that:

1. The Carrier violated the Clerk's Agreement, when it suspended Clerk Patrick Powers from actual service 11:00 a.m., September 29, 1971 to 8:15 a.m., October 14, 1971.

2. Claim that the Carrier's action was arbitrary, without just cause and an abuse of discretion.

3. Claim that Clerk Powers be compensated the exact amount of his losses, or any and all wage losses sustained, plus interest at the current rate, on the amount of reparations due.

OPINION OF BOARD: Claimant asserts that the charges against him were not precise; discipline was imposed by an official who had no opportunity to weigh the credibility of the witnesses; and, in any event, Carrier failed to demonstrate that Claimant was insubordinate.

The Board finds that the charges were precise and that Claimant was cognizant of the alleged offense at the rather lengthy investigation hearing. See Award 18606 (Rimer) and Awards cited therein.

The parties cite conflicting Awards concerning the role of a hearing officer when discipline is imposed. Upon a thorough review of the record here under consideration, the Board is unable to conclude that the Carrier's action prejudiced Claimant's rights, or denied him appropriate process.

The Organization argues that an employee may not be disciplined based solely upon totally uncorroborated testimony or based upon surmise or suspicion. See for example Awards 18351 (O'Brien), 18817 (Hayes), 19005 (O'Brien) and No. 39 of SBA No. 374 (Lynch). But the record here under review does not suffer from any such impediment. To be sure, there is some disagreement as to the precise words used and the exact timing of events, but not to the extent to preclude the upholding of a finding of insubordination. The record does not indicate a "misunderstanding" (See Award 12662 /Seff/) but rather a deliberate defiance of a Supervisor, and there is a sufficient degree of corroboration of the Supervisor's testimony by another witness, and to some extent, by Claimant, who conceded that he said, in a three-man meeting, "I don't want to listen any-

more" and left the room rather abruptly.

The Carrier's decision as to the question of guilt and the quantum of discipline imposed is supported by substantial evidence of record and will not be disturbed. See Award 19797.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 31st day of October 1973.