

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21528
Docket Number CL-21431

William G. Caples, 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-8041, that:

1. The Carrier violated the effective Clerks' Agreement when it arbitrarily and capriciously assessed Clerk H. Bentley discipline in the form of a sixty (60) day suspension from service despite the fact that the investigation conducted on November 5, 1974, failed to sustain the charges placed against him.

2. The Carrier shall now be required to clear Clerk H. Bentley's record of any charge.

3. The Carrier shall now be required to compensate Clerk H. Bentley for all wage loss suffered as a result of his suspension from Carrier service.

OPINION OF BOARD: The Claimant, a clerk, received a letter from the Trainmaster, dated November 1, 1974, which advised him:

"To arrange to report to the Trainmaster's office . . . on November 5, 1974, for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with Yard Clerk, T. Condon, being absent from duty in the East Yard and leaving the property beginning at about 9:05 p.m., October 22, 1974 while he was working a 3:00 p.m. to 11:00 p.m. extra clerical assignment.

If you desire a representative, please arrange."

An investigation was held on the date noticed, and testimony there produced showed Claimant on October 22, 1974 had been assigned a designated work position from 3:00 p.m. to 11:00 p.m. "in the East Yard Office." An extra yard clerk had been called for the same place and hours to assist Claimant with the clerical work as several extra yard crews had been called to work in the East Yard the night of October 22, 1974.

At 9:05 p.m., the Trainmaster and the Road Foreman of Engines entered the East Yard Office and found Claimant working alone. On inquiry as to the whereabouts of the extra clerk, testimony showed Claimant said "he had sent him" [the extra clerk, Condon] "home" and Claimant would accept all responsibility and "that he did not want to see Mr. Condon get into any trouble." There is no evidence Claimant reported Condon had left; there is evidence Condon filed for 8 hours pay.

Claimant was assessed discipline of 60 days' suspension for responsibility in connection with another employe being absent from duty and leaving the property some two hours in advance of the end of his duty.

The record discloses Claimant is an experienced employe and it is reasonable to assume that if he did not in fact know, he should have known, he had not the authority as a yard clerk to let a fellow clerk go home before the end of his tour of duty. Assessment of discipline is justified on the record.

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 Employes involved in this dispute are respectively Carrier and Employes 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

The Agreement was not violated.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 19th day of May 1977.