

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22414  
Docket Number CL-22386

Abraham Weiss, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station Employees  
(  
(The Baltimore and Ohio Chicago Terminal  
( Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-8487) that:

(1) Carrier violated the terms of the Agreement between the parties, when on January 30, 1975, it imposed discipline of 10 days actual suspension from service upon Utility Clerk James A. Pippen, as a result of an investigation held January 29, 1975, which was improper, and

(2) Carrier shall, as a result, be required to compensate Mr. James A. Pippen ten (10) days pay at the rate of his position for the period January 31 through February 9, 1975.

OPINION OF BOARD: Claimant was charged with conduct unbecoming an employee. The charge involved keypunching of commodity information on one car of manure. The load was punched in a CLIC format for computer entry with a well-known four-letter slang term denoting manure. At the investigation Claimant denied making the entry but it was brought out that his ID Code indicated that the entries were his.

Claimant was given a 5-day suspension for the infraction. Given the nature of the offense and taking into account other factors of contemporary railroading and conduct, we feel that a 5-day suspension was excessive. In our judgment, a reprimand would be an appropriate penalty.

At the time he served his 5-day suspension in the instant case, Claimant had pending a 5-day overhead suspension that he was now required to serve because he failed to maintain a clean record

for a 3-month period, a condition of the earlier deferred suspension. Thus, Claimant was suspended for 10 days. Our reduction of the discipline from a 5-day suspension to a reprimand will not disturb the earlier suspension. Accordingly, Claimant shall be allowed compensation for wage loss while serving the second 5-day suspension, in accordance with Rule 47 (a-6).

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 Employee involved in this dispute are respectively Carrier and Employee 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 shown in Opinion.

A W A R D

Claim sustained to the extent indicated in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 30th day of May 1979.

