

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22712
Docket Number CL-22701

John J. Mangan, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(Illinois Central Gulf Railroad

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8639) that:

(a) Carrier violated the Agreement when it suspended and disqualified Mrs. Joan McClure from the service of the Carrier for thirty (30) calendar days, commencing 4:30 P.M., January 22, 1976, for failing to supply Form 1703, Report of Ballast received on the Missouri Division, and Form 1116, Report of Ballast unloaded on the Missouri Division, to the office of Engineer, Maintenance of Way, Chicago, Illinois

(b) Carrier now be required to pay Claimant Joan McClure for all time lost as a result of suspension from the service of the Carrier for thirty (30) calendar days.

(c) Carrier now be required to lift the disqualification of Claimant Joan McClure from the position of Secretary to the Division Engineer, Position No. 104K.

OPINION OF BOARD: Claimant was a secretary to Carrier's Division Engineer at Bloomington, Illinois. On January 6, 1976 she was charged with four counts of failing to perform certain duties assigned to her position. An investigation was held on January 16, 1976 at which the charges against Claimant were extensively reviewed. Claimant was represented at the investigation by two union officials. Testimony was given and evidence offered in Claimant's defense. After the investigation was concluded, Claimant was disqualified from her position as secretary to the Division Engineer and additionally given a thirty-day suspension from service.

We have carefully reviewed the transcript of the investigation as well as the entire record submitted by the parties. Our review fails to find that any of Claimant's substantive procedural rights were violated.

We also find that there is adequate testimony in the record to demonstrate that Claimant did not properly perform the duties of the position to which assigned. There is no question that the Claimant failed to submit certain required reports for approximately eight months. Upon learning of this failure, two supervisors from the Carrier's Chicago office travelled to Claimant's work location specifically for the purpose of helping her complete the delinquent reports and instructing her in their preparation in the future. Less than two months later the reports were again delinquent. Such conduct requires correction.

Carrier disqualified Claimant from her position. Carrier also suspended Claimant from service for a thirty-day period. The disqualification from service presumably was predicated on the assumption that at the time of disqualification Claimant lacked the fitness and ability to perform the work of her position. Under the circumstances of this case and the record made at the investigation, this would be an appropriate discipline. The thirty-day suspension is another matter, especially when it is coupled with the disqualification. Under the circumstances of this case, we are inclined to view the thirty-day suspension as excessive. We will order that the suspension be set aside and Claimant be paid for wage losses sustained during that time less appropriate deductions for outside earnings as provided in the parties' agreement.

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 discipline was excessive.

A W A R D

Claim sustained to the extent indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1980.