

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22717
Docket Number CL-22492

James F. Searce, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
PARTIES TO DISPUTE: (
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8538) that:

1. Carrier acted in an arbitrary, capricious, unjust and discriminatory manner when on August 31, 1977, it assessed a thirty (30) day actual suspension against Cleaner Sebron S. Vannoy, said suspension beginning September 1, 1977, and ending September 30, 1977.

2. Carrier shall now be required to compensate Cleaner S. S. Vannoy for all time lost from September 1, 1977, through September 30, 1977.

3. Carrier shall further be required to pay Cleaner S. S. Vannoy interest in the amount of ten (10) per cent compounded annually on the anniversary date of this claim.

OPINION OF BOARD: The record for this case leaves little to doubt that the Claimant directly and repeatedly refused to complete a work assignment -- to clean up a dirty restroom -- which was properly within his responsibility; such order was properly issued. The grievant contends he left the job unfinished to draw attention to the situation; he did so, but certainly not as intended. The Claimant suggests discrimination -- a charge unproven. While we might share the Claimant's disgust for the poor latrine habits of fellow employes, we suggest he is on perilous ground to refuse what must be considered a clear directive to perform his assigned duties -- no matter how odious or odorous. The Carrier cites a prior record of discipline to demonstrate its basis for the extent of the discipline. We note the last such discipline was five years past and none for the type of offense as committed here. Nonetheless, the Claimant's blatant insubordination is worthy of the type and extent of discipline meted out here. Perhaps the Claimant's inopportune and chancy decision to draw attention to this problem accomplished its purpose -- but we suggest that a recurrence of such activity might result in a more lasting impact upon his employment status.

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

That the Agreement was not violated.

A W A R D

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls
Executive Secretary

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

