

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23143
Docket Number CL-22837

Robert A. Franden, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8718)
that:

(a) The Carrier violated the Clerks' General Agreement when they administered discipline of thirty (30) days actual suspension against Claimant William D. Gipner as a result of hearing held on December 3, 1975.

(b) Claimant Gipner to be made whole for all wages and wage equivalents lost as a result of this discipline and his record be made clear of any discipline entry.

OPINION OF BOARD: Claimant was suspended from the service of the Carrier for thirty (30) days after having been found guilty of being insubordinate by reason of his failure to report to the office of Mr. W. C. Short, Terminal Train Master, as instructed. Said discipline was assessed after investigation properly held pursuant to sufficient notice.

The transcript of the investigation in the instant case reveals that Claimant was instructed to report to the office of the Train Master at 3:25 p.m. on November 25, 1975, and that, in fact, he did not report to the Train Master's office until approximately 4:15 p.m. There is also evidence in the record that during the period of time between the time he was requested to report and when he did in fact report, the Claimant was on the phone performing the functions of his position. From a thorough review of the transcript, we are unable to conclude that the Carrier was incorrect in its finding that the length of time taken by Claimant to report as instructed was excessive and did, in fact, amount to insubordination. Given all of the circumstances of the case, however, it appears to us that the discipline assessed by the Carrier in the instant matter was excessive. Accordingly, we hold that Claimant should be compensated for all time lost in excess of a suspension of ten (10) days.

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 in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: _____

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1981.