

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23161
Docket Number CL-23121

Joseph A. Sickles, 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-8872)
that:

(1) Carrier violated the Agreement when it suspended Mrs. Betty G. Yates from the service of the Carrier for thirty (30) calendar days effective March 10, 1977 for failing to perform all duties of the assignments she relieved between January 3 and January 28, 1977.

(2) Carrier now be required to pay Claimant Betty G. Yates five (5) days per week, at the rate of Operator-IBM Clerk, Columbus, Mississippi, during the period she was suspended as a result of investigation held February 24, 1977.

(3) Carrier now be required to clear Claimant's record of all charges leading to the thirty (30) days' suspension from the service of the Carrier.

OPINION OF BOARD: The Claimant was notified of an investigation concerning an allegation that she failed to perform certain duties during January of 1977.

Subsequent to the investigation, the Claimant was suspended for thirty (30) calendar days.

We have considered the record in detail, including the assertions that the Claimant failed to post cars received from another carrier, charges that she failed to correct certain cars, mishandling, etc.

In addition, we have considered the Claimant's assertions concerning the propriety of the findings. In the final analysis, we are convinced that the Carrier was justified in taking disciplinary action against this employee, based upon the evidence adduced. However, even in consideration of the employee's record, we are of the view that a thirty (30) calendar day suspension was arbitrary and capricious, and should be reduced. It is our judgment that a ten (10) calendar day suspension is appropriate.

We have noted that the Claimant has only suffered an "...actual loss of time...of...five days." Our review of the record fails to disclose to us which five (5) days may have been involved. Thus, we affirm the first ten (10) calendar days as the period of the disciplinary action, and whatever of the five (5) days that she may have lost during the final twenty (20) calendar days of the suspension are the days that shall be restored to her.

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 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.