

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23394
Docket Number CL-23000

Robert A. Franden, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(Elgin, Joliet and Eastern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8861) that:

1. Carrier violated the effective Clerks' Agreement when, following an investigation on August 18, 1978, it suspended Clerk L. A. Clark from service for a period of five days without just cause;

2. Carrier shall now compensate Clerk L. A. Clark for all time lost as a result of this suspension from service and shall clear his record of the charge placed against him.

OPINION OF BOARD: Claimant was suspended from the service of the Carrier for five days after having been found to have absented himself from duty without permission or proper authority on August 9 and 10 of 1978.

It is the position of the Organization that the Claimant properly reported off and that the Carrier has failed to prove the charge.

While there does appear to be some conflict in the evidence presented at the investigation, a review of the transcript of the hearing reveals that substantive evidence of probative value was produced at the hearing to support the charge and the finding of the hearing officer. It is not our position to weigh the evidence in the instant matter and substitute our opinion for that of the hearing officer. We are unable to conclude that the finding of the Carrier officer was arbitrary and capricious and without foundation and accordingly, we will deny the claim.

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 6th day of October 1981.

