

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23544  
Docket Number CL-24029

Joseph A. Sickles, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-9397) that:

1. The Western Pacific Railroad Company violated the Rules of the Clerks' Agreement when it arbitrarily and capriciously removed Mr. R. J. Rohrscheib from service January 4, 1980, on inadequate charges that were unproven and failed to return him to services until March 4, 1980.

2. The Western Pacific Railroad shall now be required to compensate Mr. R. J. Rohrscheib for all time lost from and including January 4, 1980, until and including March 4, 1980.

OPINION OF BOARD: The Claimant was notified to attend an investigation concerning an asserted late reporting for duty, AWOL, and unbecoming conduct, including threatening remarks made against another employee.

Subsequent to the investigation, the Claimant was suspended for sixty (60) days.

We are unable to concur that the charges are not precise, or that there are any procedural matters which prevent us from considering and disposing of the case on its merits.

Our review of the record leads us to conclude that the Employee did report late, and once he arrived at the work location, he engaged in certain rather anti-social behavior which was beyond the conduct reasonably expected of him.

Based upon an entire review of the record, we are of the view that disciplinary action was appropriate, however considering all facets of the case, we are inclined to believe that a 60 day suspension was arbitrary under the circumstances and, accordingly, we will only approve a thirty (30) day suspension.

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 that it exceeded a thirty (30) day suspension.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:



Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1982.