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NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24022  
Docket Number CL-23945

Ida Klaus, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(CL-9400) that:

1. Carrier violated the Agreement between the parties when, on August 3, 1979, they arbitrarily and capriciously assessed Clerk E. L. Teal, Jr. thirty (30) days suspension from service.
2. Carrier's action was unjust, unreasonable, and in abuse of Carrier's discretion.
3. Claimant's record shall be cleared of this charge and Carrier shall compensate Mr. Teal for all time lost due to their arbitrary action.

OPINION OF BOARD: The Claimant protests as unjust and arbitrary the assessment of 30 days suspension for failure while on duty as an operator-clerk-caller to detect a hot box.

The Organization contends:

- (1) The hearing was unfair because it failed to develop material facts through other culpable employees not called as witnesses.
- (2) The penalty was excessive because it failed to consider mitigating circumstances.

The Board concludes that the record does not support either contention.

The Board finds on the entire record that there was substantial evidence, fairly adduced, of a reliable and probative nature to establish the Claimant's responsibility as charged. We find further, in view of the extent of damage incurred, that the penalty was not excessive.

The Claim will be denied.

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: Acting Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of November 1982.

