

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24407
Docket Number CL-2442

William G. Caples, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-9552) that:

1. Carrier violated the effective Clerks' Agreement when, following an investigation on February 5, 1981, it suspended Clerk Patricia Ann Trudeau from service for a period of sixty (60) days, commencing on February 9, 1981;

2. Carrier shall now compensate Ms. Trudeau for all time lost, including any potential overtime, as a result of this suspension from service and shall clear her record of the charge placed against her.

OPINION OF BOARD: Under date of January 23, 1981, the Supervisor of Car Operations sent a letter to Claimant, an employee with a service date of July 16, 1973, directing her to report for an investigation:

"...for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with your alleged failure as required by Company rules to report or identify a personal injury which you now allege took place on or about August 1978 at 6900 South Central Avenue, Chicago, Illinois, managements' first knowledge being January 22, 1981 on receipt of a letter dated January 19, 1981 from 'a named and designated law firm' which you have retained in a claim for damages against the Carrier..."

An investigation was held and Claimant suspended from actual service for 60 days, a period beginning February 9 and ending April 10, 1981. The discipline was appealed through the procedures for handling such disputes to this Board. The Claimant maintained the discipline was without justification.

The facts are that from August 6 through September 1, 1978, Claimant was off work due to illness. There was trouble diagnosing her illness which was ultimately diagnosed as ocular histoplasmosis. Before Claimant returned to work she was examined by the Carrier physician on August 31, 1978. The report was not made a part of the record. The Claimant stated at the hearing that she advised her immediate supervisor of her condition. There was no contrary evidence in the record.

The Carrier's case is based on its contention that Claimant failed to report her condition as work related and she wilfully concealed this from the Carrier.

It is well established in this Division that in discipline cases the Carrier has the burden of proof. The record in this case fails to establish any evidence of probative value which sustains Carrier's burden.

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 violated.

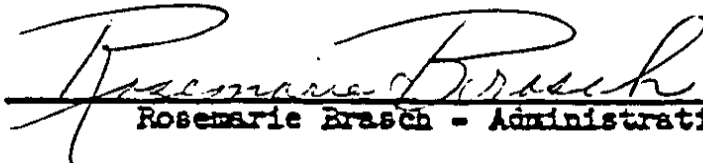
A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of June 1983.

*Brasch
9-7-83*