

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25697
Docket Number CL-25743

Eckehard Muessig, Referee

(Brotherhood of Railway, Airline and Steamship Clerks
(Freight Handlers, Express and Station Employees

PARTIES TO DISPUTE: (

(Terminal Railroad Association of St. Louis

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9916) that:

1. Carrier violated the Clerks' Rules Agreement when it assessed discipline of fifteen (15) days deferred suspension to Crew Board Clerk, Mr. R. T. Williams on January 12, 1984.

2. Carrier's action was harsh, excessive and unreasonable due to the facts involved.

3. Carrier shall now be required to remove the fifteen (15) day deferred suspension and all references thereto, from claimants personal record, due to their harsh and unreasonable action."

OPINION OF BOARD: Subsequent to an investigation held on January 5, 1984, in connection with the Claimant's alleged failure to properly perform his duties as Crew Clerk, he was found guilty of mishandling a vacancy on the third shift, December 27, 1983, because he did not follow established board marking procedure and, thus erred in marking the board. The Carrier assessed a fifteen (15) day suspension to be held in abeyance unless the Claimant would be disciplined again for a similar offense prior to March 13, 1984.

The Organization contends that the notice of investigation was procedurally defective, in that it stated that the position involved had assigned hours commencing at 11:00 P.M., rather than the correct hour of 10:30 P.M. The Board does not find this error prejudicial to the Claimant. The record shows that he knew what the charge was and was able to adequately prepare a defense.

Turning to the merits, on the basis of the record it cannot be said that the Carrier lacked grounds for disciplinary action. However, in this instance, there are factors which mitigate the gravity of the offense. In this respect, the Board particularly notes that, while the Claimant cannot completely absolve himself of responsibility for the delay in filling the Crest Retarder Foreman assignment (the position in question here), the record shows that there were others involved in the events and occurrences that led to the error who also shared a degree of responsibility. Moreover, it is apparent from reading the testimony that there was some confusion as to the procedures and process to be followed by those involved in the work associated with the Crew Board.

The Board finds these factors to be mitigating and, accordingly, under all of the facts and circumstances, the discipline assessed was harsh. Consequently, we shall reduce it to a five (5) day suspension to be held in abeyance unless the Claimant was disciplined for a similar offense prior to March 13, 1984.

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 in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: _____



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 14th day of November 1985.

