

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26119
Docket Number CL-26287

Philip Harris, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(Terminal Railroad Association of St. Louis

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9997) that:

1. Carrier violated the Clerks' Agreement when it issued thirty (30) days actual suspension to Claimant, which was arbitrary, excessive and an abuse of discretion on September 14, 1984, following investigation held on Friday, August 31, 1984.

2. Carrier's action is in violation of Rules 23, 24, and 33 (b) of the Agreement and letter of Carrier's Superintendent B. O. Matthews dated March 13, 1984, to Division Chairman of the Organization.

3. Carrier shall now be required to compensate Claimant Oestreich for the thirty (30) days time lost for period September 15 to October 15, 1984, with seniority, vacation and all other rights unimpaired."

OPINION OF BOARD: On August 12, 1984, Claimant, working as a Crew Clerk, permitted an employee under her jurisdiction to lay off for one day. This was done despite the written instructions given to Claimant on August 7, 1984 by her superior that "There will be no more lay offs or additional vacations allowed...Friday 8/10 - Sat 8/11 - Sun 8/12." Because she could not produce a legitimate reason for the error, and because this was the second time such an error was committed, a thirty-day suspension was imposed.

The Organization contends that the punishment was in violation of a Letter of Agreement which provided that a second error within six months of the first be handled as follows: "Conference with employee and their representative, documented with a letter."

The Board agrees that the suspension of Claimant was in violation of the clear language of the Letter of Agreement. She should be made whole. However, since the documentation of the error was never placed in her file, this should now be done.

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. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 19th day of September 1986.

