

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

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

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10059) that:

1. Carrier violated the effective Clerks' Agreement when, following an investigation held on September 17, 1984, it suspended Mr. L. Alcaraz from service for a period of three days commencing on September 26, 1984;

2. Carrier shall now compensate Mr. Alcaraz for all time lost, including potential overtime, and shall clear his record of the charges placed against him."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On June 27, 1984, Claimant was assigned by Carrier to work as the East Outbound Switching Information Clerk. On the date in question, Claimant discovered that a car had been improperly included in a Missouri Pacific train; he filled out a set-out form on the car and sent it to the Yardmaster. Later that day, Claimant issued waybills to the crew of the Missouri Pacific train; the wrongly included car, however, had not been set out, so the train left the yard with the car still in tow. Claimant subsequently was notified to attend an investigation into the charge:

"determining your responsibility, if any, in connection with car NOKL 88121 routed NW (570) departing Clearing Yard in error to MP (460) at/or about 1:10 PM, June 27, 1984, during your tour of duty as Relief Switching Information Clerk Position #74 - 382, Central Car Operations, 6:05 AM to 2:05 PM, June 27, 1984."

After a postponement, the hearing was held on September 17, 1984; as a result of the hearing, Claimant was assessed a three-day suspension. The Organization thereafter filed a claim on Claimant's behalf challenging the suspension.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of not properly performing his duties on the date in question.

Once this Board has determined that there is sufficient evidence in the record to support the Carrier's finding of guilty, we next turn our attention to the amount of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find that the action taken by the Carrier was unreasonable, arbitrary, or capricious. In this case, the Claimant received a three-day suspension for what amounted to be an oversight, not intentional wrongdoing. This Board finds that that discipline is unreasonable under the circumstances of this case. This Board orders that the discipline be reduced to a written reprimand and that the suspension be removed from the Claimant's record and that he be made whole for all pay lost as a result of the suspension.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of April 1988.