

The Third Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: (Transportation Communication International Union
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10215) that:

1. Carrier violated the Agreement Rules, particularly Rule 21, when it applied discipline in the form of a five (5) day actual suspension from service against Ms. Lillie Fleming, Terminal Car Movement Clerk, Proviso, account formal investigation held on August 5, 1986, and

2. Carrier shall now be required to clear Claimant's records of the charges and discipline assessed and to compensate Claimant Fleming for all time lost account of the involved suspension from service, beginning August 11, 1986, and continuing until she was restored to the service of the Carrier."

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 employes involved in this dispute are respectively carrier and employes 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.

A formal investigation was held on August 5, 1986, to determine Claimant's responsibility, if any, for failure to properly report an interchange of a train. Following the investigation the Carrier found the Claimant guilty as charged and assessed a five (5) days actual suspension.

During the progression of this Claim on property the Organization argued that Claimant had a lack of proper training and preparation. The Organization maintained that the unintentional job related error was immediately known by the Claimant who attempted to correct it. The Organization maintains that the discipline was not in compliance with the Agreement.

This Board's review of the instant case finds no probative evidence that Claimant lacked sufficient training to properly interchange the train. A review of the transcript indicates Claimant had previously handled similar interchanges. The admitted error was not appropriately corrected.

The Board finds no Carrier violation of any Rules of the Agreement. A review of the Discipline Policy indicates that after continued minor offenses an employee may be issued a written warning that they have been placed on the Discipline System. A review of the Claimant's record indicates that Claimant had received the written warning. The Board finds no violation of the Discipline Policy when it compares the Claimant's record with that policy.

Finding sufficient probative evidence that Claimant was guilty as charged and no violation of the established discipline system, the Board will not interfere with the Carrier's action. The Claim is denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of June 1989.