

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Soo Line Railroad Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10324) that:

1. Carrier violated the Clerks' Rules Agreement at Bensenville, Illinois, when it charged, held investigations and arbitrarily and capriciously assessed discipline of sixty (60) days actual suspension against Employee G. W. Murray.

2. Carrier shall now be required to clear Employee G. W. Murray's record of all mention of charges, investigations and subsequent discipline and compensate him for all lost time caused by such discipline."

FINDINGS:

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

The carrier or carriers and the employee 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.

Claimant was subject to two investigative Hearings concerning his work performance. Following the Hearings he was assessed a 60-day disciplinary suspension on the following basis:

"Full consideration has been given to testimony developed at two formal investigation/hearings both held on November 8, 1984 one at 3:00 and one at 3:30 p.m. of which you were advised of charges in notices dated November 2, 1984 and for your responsibility in connection with: failure to comply with instructions while working train 228 on October 28, 1984 by not

properly marking Dangerous and HiWide cars on hard check while working position 04630 on October 28, 1984; and for your failure to comply with instructions while working train 226 on October 30, 1984 by not properly marking HiWide car on hard check while employed on Position 04630 on October 30, 1984."

The Board finds no reason to question the Claimant's guilt as to the charges. The Claimant at the time had 27 years of service and had not been subject to discipline in the previous two years. Based on these factors and the propriety of progressive discipline as a corrective measure, the Board finds the penalty unduly harsh. The Award will direct that the penalty be reduced to 30 days' suspension, and the Claimant is to be made whole for the remainder of lost time.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 21st day of June 1990.