

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32404
Docket No. CL-32791
98-3-95-3-600

The Third Division consisted of the regular members and in addition Referee John H. Abernathy when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(New Jersey Transit Rail Operations, Inc.)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11191) that:

(a) Carrier acted in an arbitrary and capricious manner when it unjustly assessed discipline of Reprimand on Data Entry Clerk Barbara Van Wallendael on October 3, 1994.

(b) Claimant's record be cleared of the charge brought against her September 9, 1993.

(c) Claimant be compensated for wage loss sustained, in accordance with Rule 42.”

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 employee 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 were given due notice of hearing thereon.

On August 11, 1993, Claimant sustained an on-the-job injury and called in sick because of that injury the next day. On September 9, 1993 Claimant was charged with failure to report that injury and, after an Investigation, was assessed a suspension of ten days. On November 29, 1994 the Organization appealed that suspension to the Manager of Labor Relations. After the Manager of Labor Relations held a Hearing and denied this appeal, the Organization appealed to the Director of Labor Relations, who also conducted a Hearing and reduced the ten-day suspension to five days on March 20, 1995.

The Organization continued to press their claim and on August 24, 1995 Carrier reviewed this claim again and offered to expunge the discipline without prejudice on September 4, 1995. The Organization continued to maintain the Claimant was not guilty. On October 27, 1995 Carrier informed the Organization that the discipline had been expunged from Claimant's file. On December 6, 1995 the Organization petitioned to have this case heard by this Board.

This Board finds that there was miscommunication between the Carrier and the Organization. The discipline imposed on the Claimant has been expunged from her record. This issue is moot.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 21st day of January 1998.