

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 35463  
Docket No. CL-36236  
01-3-00-3-458**

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

**PARTIES TO DISPUTE:** (Transportation Communication International Union  
(National Railroad Passenger Corporation (Amtrak))

**STATEMENT OF CLAIM:**

“Claim of the System Committee of the Organization (GL-12624) that:

1. The Carrier acted in an arbitrary, capricious and unjust manner in violating of Rule 24 of the Agreement, when by letter dated August 11, 1999 it assessed the discipline of “ten-day suspension, under the term of your agreement, final warning, and disqualification from holding or working all Ticket Clerk, Ticket Baggage man, or Baggage man positions” to Ms. Faye Campbell, pursuant to an investigation held on July 29, 1999.
2. The Carrier shall expunge from Claimant’s work record all mention of the investigation and subsequent discipline and immediately reinstate her qualifications to ticket and baggage work.
3. Should Claimant be able to hold any Ticket Clerk or Baggage man positions during the suspension period and be disallowed, Carrier should make Claimant whole to all lost wages.”

**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 March 6, 1999, the Claimant, who was assigned as a Ticket Agent at the Ocala, Florida, Station, attempted to retrieve a bag for a passenger who had departed the train, but discovered at the last minute that one of his bags was still on board, the Claimant fell on the platform and injured herself. She suffered a sprained ankle and brush burns on both hands and one knee. She lost 55 days from work because of the accident. On July 7, 1999, the Claimant was directed to report on July 12 for a formal Investigation into the matter. She was charged as follows:

**“CHARGE:**

Violation of the Standards of Excellence rule under SAFETY that reads in part . . .” Amtrak’s highest priority is the safety and well-being of our employees and customers. Your help is essential to achieving that goal. You can begin by being sure that you understand and comply with all safety requirements related to your position. In many instances, it may be just a matter of using plain common sense. Familiarize yourself and obey safety guidelines pertinent to your department or craft. TEAMWORK . . . You must comply with all company and departmental policies, procedures, and rules . . . Safety Rule 2020 . . . AUTHORIZED ROUTE . . . Walk don’t run.

**Specification:**

In that it is alleged on March 6, 1999, while on duty as a Ticket Agent at the Ocala, Florida station, you injured yourself after falling down while running on the platform. Furthermore, it is alleged that in this instance you did not work safely as you did not comply with Safety Rule 2020.”

A Hearing in the matter was held on July 29, 1999. A transcript of the Hearing was made a part of the record. As a result of that Hearing, the Claimant was found guilty as charged and assessed a ten-day Suspension and a final warning. She was also disqualified from holding and/or working all Ticket Clerk, Ticket Baggage man, or Baggage man positions.

The Hearing Officer in this matter rendered a decision that essentially concluded that the Claimant violated Safety Rule 2020, which reads as follows:

**“MOVING ABOUT EQUIPMENT/FACILITIES  
2020 Authorized Route**

**Use only the authorized route or path while going to or from work and while moving from one point to another while on duty.**

**Walk, don't run . . .” (Underscoring added.)**

He concluded from the testimony of the Claimant and the passenger involved that the Claimant, in her haste to retrieve the passenger's bag before the train pulled away from the station, fell down and injured herself. He found that these actions were a violation of the Carrier's Safety Rule and a very serious matter.

In spite of the conflicting evidence in this case (the taxi driver said he saw the Claimant walking toward the baggage cart, not running), the Hearing Officer had the authority, based on his analysis of the testimony and statements in the record, to conclude that the Claimant was in fact running or “sprinting,” as the Claimant testified, and this was a violation of Rule 2020. The Board concludes that the Hearing Officer was correct in his decision on this aspect of the case. Based upon the total record, including descriptions of the condition of the platform and the inadequate lighting in the area of the Claimant's fall, however, the Board finds that the penalties imposed were arbitrary and capricious. They are far more severe than the Rule infraction, under the conditions that existed at the time.

It is the Board's decision that the Carrier could have made its point with all concerned by assessing only a ten-day Suspension. The final warning and the disqualification of the Claimant were excessive in this instance and were not justified by the record. The Board therefore directs that the Claimant's record shall be cleared of

any reference to a final warning and the Claimant shall be allowed to bid on and/or hold any job in her craft she has seniority and skills to obtain.

The Claimant should be aware that any further violation of the Safety Rules will most likely result in far more severe discipline than assessed in this case.

**AWARD**

Claim sustained in accordance with the Findings.

**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division**

**Dated at Chicago, Illinois, this 22nd day of May, 2001.**