

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 42302  
Docket No. MS-42618  
16-3-NRAB-00003-140361**

**The Third Division consisted of the regular members and in addition Referee Richard K. Hanft when award was rendered.**

**(Marsha K. Williams**

**PARTIES TO DISPUTE: (**

**(Norfolk Southern Railway Company**

**STATEMENT OF CLAIM:**

- “1. The Carrier by letter dated May 24, 2013, violated the provisions of Rule 27 of the April 1, 1973, Clerical Master Agreement, as amended, when as a result of a hearing and investigation it arbitrarily and capriciously assessed a twenty (20) day deferred suspension against Clerk M. K. Williams for alleged violation of Norfolk Southern General Conduct Rule 26(a) in that on May 2, 2013, she was observed reading a newspaper while on duty. Clerk Williams was also charged for improper performance of duties, in that from April 8 through May 2, 2013, her work performance was significantly deficient in comparison to similar positions during the same scheduled hours and period of time while assigned as a Terminal Operator at Chicago, Illinois.**
- 2. In view of such arbitrary, capricious, unjust, discriminatory and unreasonable action of the Carrier, it shall now be required to compensate Clerk M. K. Williams for all time lost during the period of discipline, May 24, 2013 through June 2, 2013, which was a result of the activation of the ten (10) day deferred suspension issued on May 24, 2013. In addition, Clerk Williams should be compensated for all time lost should the (20) day deferred suspension be activated. The Carrier shall expunge from Claimant's record any and all reference to the unwarranted charges as contained in Mr. Carper's letter of May 24, 2013 and also be required to compensate Clerk Williams any**

time lost as a result of attending the hearing in connection with the discipline assessed.”

**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.

The Claimant is employed by the Carrier as a TOFC Clerk at the 47th Street Intermodal Facility in Chicago, Illinois. The Claimant holds seniority back to October 8, 1976 with this Carrier and its predecessor Railroad.

It is undisputed that on March 7, 2013, the Claimant was verbally counseled by Intermodal Operations Manager J. M. Jorgensen about reading a newspaper while on duty.

Less than a month later, the record reveals, on the morning of May 2, 2013 the Claimant was again observed by Jorgensen reading a newspaper. This observation prompted Jorgensen to perform an audit of the Claimant's work output. The audit showed that between April 8 and May 2, 2013, the Claimant's work output was between 25% - 50% lower than similarly situated co-workers performing the same tasks on the same shifts.

As a result of the Manager's observations and audit results, the Claimant was charged with a violation of General Rule 26 (a) and Improper Performance of Duty.

Following the formal Investigation held on May 15, 2013, the Claimant was found responsible and assessed a 20-day deferred suspension.

The Claimant's Union, the Transportation Communications International Union (TCIU) appealed the case to the Carrier's highest designated officer who denied the appeal. An on-property conference was conducted on November 7, 2013 without resolution. The Claimant progressed this claim to the Board on her own behalf.

The Claimant admitted during the on-property Investigation that she was reading a newspaper during her tour of duty on May 2, 2013. Moreover, the audit of her work activity clearly showed a significant lack of production when compared to her co-workers who were performing the same tasks on the same shifts.

In light of the Claimant's admission during the Investigation, as well as the results of the audit of her work output as compared to other similarly situated employees, the Board can find no reason to overturn the discipline assessed. Accordingly, the claim must be denied.

**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 15th day of June 2016.