

The Second Division consisted of the regular members and in addition Referee Joseph S. Cannavo, Jr. when award was rendered.

(Brotherhood Railway Carmen/Division of TCU  
PARTIES TO DISPUTE: (  
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM:

1. Coach Cleaner Kevin A. Wiksten was erroneously charged with being excessively absent and tardy for duty on December 10, 1987.
2. Coach Cleaner Kevin A. Wiksten was unjustly assessed ten (10) days suspension on January 14, 1988, following investigation held December 30, 1987.
3. That the Chicago and North Western Transportation Company be ordered to set aside the ten (10) days suspension and make Coach Cleaner Kevin A. Wiksten whole for all lost wages plus 6% interest, in accordance with Rule 26, which is controlling.

FINDINGS:

The Second 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.

As the result of a formal Investigation held on December 30, 1987, Claimant was assessed a ten (10) day suspension. Claimant was charged with excessive absenteeism, which absenteeism, according to the Carrier, became excessive when he failed to report for duty on November 19, 1987, and December 3, 4 and 5, 1987, and tardy on November 25, 1987, and December 10, 1987.

Attendance for this Carrier is controlled by the Equipment Management Absentee Policy. It defines an occurrence as a continuous absence resulting from a single illness or single cause. Upon a certain number of occurrences, an employee is then placed on the formal discipline system. This policy became effective October 1, 1987. The Carrier's discipline system provides a suspension for ten (10) calendar days if the employee has received a five (5) day suspension under the policy.

The Organization contends that Rule 25(e) of the July 1, 1984 Agreement is controlling. That Rule provides that an employee, absent from work because of sickness "shall notify his supervisory officer as soon as possible." There is no dispute but that Claimant called in to advise the Carrier that he would be absent. However, Claimant spoke to a clerk. At the Hearing, Claimant provided doctors' notes for his absences of December 3 thru 5 and his tardies on November 25 and December 10. The doctor's note for the absences is dated December 23, 1987. The note for the tardies is undated. The record also establishes that the Claimant was issued a five (5) day suspension due to thirty-one (31) absences between January and September, 1987.

The Board notes that while Rule 25(e) requires an employee to notify his Supervisor of absences, such compliance does not excuse those absences. The intent of Rule 25(e) is to provide notice to the Carrier so that it may protect the assignment. Further, the absentee policy, being a no-fault policy, is oblivious to the reasons for an absence. The record does not provide any evidence to establish a written rule or agreement or past practice that excludes absence due to personal illness from the absentee policy. All such exclusions are listed in paragraph 2 of the policy.

The Board notes that the Organization does not argue that the Claimant was disciplined inconsistent with the absentee policy. The Organization contends that the policy is unreasonable because it does not provide for authorized occurrences. Carrier argues that for whatever reason, Claimant was excessively absent and that the question of excuse is irrelevant where an employee cannot maintain his regular attendance.


Given the fact that the discipline assessed was in accordance with the attendance policy and the disciplinary system and given the Claimant's past attendance history, the Board agrees with the decision of the Hearing Officer.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 6th day of June 1990.