

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

George S. Ives, Referee

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**PARTIES TO DISPUTE:**

**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION**  
(Formerly The Order of Railroad Telegraphers)

**CHICAGO AND NORTH WESTERN RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago and North Western Railway, that:

Carrier's dismissal of B. A. Stone from its service, effective September 26, 1963, for allegedly being absent from duty at Fairmont, Minnesota, on September 19, 1963, without obtaining permission from proper authority was too severe, and that he be restored to service with all rights unimpaired and paid for time lost.

**OPINION OF BOARD:** Claimant was dismissed from service on September 26, 1963, for being absent from duty at Fairmont, Minnesota on September 19, 1963, without obtaining permission from proper authority in violation of Rules 702 and 811 of Carrier's Rules for the Government of the Operating Department.

It is not denied that Claimant closed his office at 3:30 A.M. without being excused by the train dispatcher. Claimant asserts that he then drove his automobile to a location approximately one mile from the depot at Fairmont to ascertain whether or not a particular train had arrived at the Minnesota Mining & Manufacturing Company plant, which had been his custom during a period of seven months prior to the close of his tour of duty at 4:00 A.M. Claimant had been instructed to notify the dispatcher when said train arrived at Fairmont, and Claimant followed the procedure of driving to the location described above to determine if and when the train arrived. On September 19, 1963, the train did not arrive before 4:00 A.M. and the Claimant left without notifying the dispatcher that he was leaving or that the train had not arrived prior to his departure.

The record clearly discloses that Claimant was not excused by the train dispatcher before leaving his assignment and his departure without authority was in violation of Rule 811 of Carrier's Rules for the Government of the Operating Department. Such absence without proper authority likewise constituted a violation of Rule 702.

A review of the evidence supports the conclusion that the instant claim was processed on the property essentially as a claim for leniency. The grava-

men of the claim rests on the premise that the discipline assessed is excessive and too severe. There are no allegations of procedural defects nor any denial of Claimant's guilt.

Claimant's conduct was deliberate, and the Carrier had a right to impose the discipline it believed necessary unless the penalty was arbitrary, capricious or unsupported by the record. Unauthorized absences from duty, if proven, are serious offenses, and often result in dismissal from service. In accordance with the broad latitude given Carriers by this Board in the matters of assessing discipline, we will not upset the punishment decided upon by the Carrier, even though the sanction chosen may be greater than that which the Board might choose. (Awards 14272, 11009, 9422)

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

That the parties waived oral hearing;

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

In this case the Board finds no evidence sufficient to justify setting aside or mitigating the discipline imposed. Accordingly, the claim will be denied.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 24th day of June 1966.