

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20177
Docket Number m-20384

Joseph Lazar, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**
(Louisville and Nashville Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood that:

(1) **The** dismissal of Carpenter Helper J. Jackson, Jr. for failing to report for duty and being off without permission from proper authority on July 17, July 18 and July 19, 1972 was extremely severe and wholly disproportionate to the offense with which he was charged (System File 1-16/D-104288).

2. Carpenter Helper **J.** Jackson, Jr. be reinstated with seniority, vacation and all other rights unimpaired and that he be compensated for all wage loss suffered, all **in** accordance with Rule 27(f).

OPINION OF BOARD: Our review of the record shows that Grievant, by his **own** admission, and despite repeated warnings, was absent from his assignment **without** permission on July 17, 18, and 19, 1972, as charged. Absenteeism is a serious matter. As stated in Award No. 14601 by Referee George S. Ives,

"Unauthorized absences from duty, if proven, are serious offenses, and often result in dismissal from service."

Mitigating circumstances, however, are present. Grievant had lost some 50 pounds in an illness at the time; had called his Foreman's home at 4:00 a.m., July 18, talked to his Foreman's wife and mistakenly believed this gave him permission to be off; had not been previously actually disciplined for being absent without permission, and, apparently, did not clearly understand the procedures necessary for obtaining permission to be off. In view of the mitigating circumstances under the circumstances of this particular case, **Grievant** should be reinstated and restored to service with seniority and other rights unimpaired, but shall not be compensated for any loss of time.

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

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

That the discipline imposed was excessive.

A W A R D

Carpenter Helper 3. Jackson, Jr. shall be reinstated and restored to service with seniority and other rights unimpaired, but shall not be compensated for any **loss** of time while out of service.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: _____

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 15th day of **March 1974.**