

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20896  
Docket Number MU-20975

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: ( (Brotherhood of Maintenance of Way **Employees**  
(Chicago and North Western Transportation Company

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

(1) The suspension of Laborers **H. M. Havenor**, M. L. Mullen and O. L. **Wahlberg** for thirty days was without just and sufficient cause. (C&NW Files **D-11-21-25; D-11-21-26: D-11-21-27)**

(2) The record of the above-named claimants be cleared and they each be paid for all time lost in accordance with **Rule** 22-E.

OPINION OF BOARD: **The** three Claimants herein were assessed a thirty day suspension for failure to complete their duty assignments **on** Thursday, **November** 8, 1973. They had been driven (in a fellow employees' car) to get some hot lunch on a cold day and the car had broken **down** some ten minutes after they started at about 12 **Noon**. Their work day ended normally at 4:00 P.H., and they did not return to work that day. The information that they could not return to work was not relayed to the foreman, even though the Claimants stated that they had called a clerk or dispatcher at a nearby station and assumed he would relay the message to their foreman. The testimony indicates that they thought the car could be fixed by **1:30** P.M. and it developed this could not be accomplished.

The principal thrust of Petitioner's argument is that the penalty for the failure of Claimants to return to work was excessive, under all the circumstances, and discriminatory. The Organization contends that the men **were** guilty of **poor** judgment perhaps, but had a legitimate reason for not returning to work in view of the car trouble.

It is noted that the accident alleged by Claimants took place at the same town (population 1700) where the rest of the crew was having lunch, approximately two miles from the work site. There is no indication that the three **men** were all needed to assist in the repair of the car or that any of them attempted to contact the rest of the crew prior to **12:30** P.M. Further, it would not be unreasonable to question why the men did not walk the two miles back to the job.

It is evident that the investigation revealed sufficient information to support Carrier's conclusion that the three men were guilty of the charge. That point is really not contested by the Organization. The only issue is was the penalty excessive and arbitrary and did it *constitute* an abuse of discretion on the Carrier's part. We think not. An unauthorized absence from duty during assigned hours is a very serious matter and has resulted in dismissal in many

instances (see Awards 16847 and 14601 for example). It is clear that in this case the Claimants exercised poor judgment at best and made no effort to return to work. In accordance with our long established policy of according Carrier's considerable latitude in the imposition of discipline, we will not upset the penalty in this case, even though the sanction selected by Carrier may well be greater than that which the Board might have chosen.

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;

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

That the Agreement was not violated.

A W A R D

Claim denied.

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

ATTEST: *AW. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, this 12th day of December 1975.