

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21060  
Docket Number MW-21324

James C. **McBrearty**, Referee

(Brotherhood of Maintenance of Way **Employees**

PARTIES TO DISPUTE: (

(St. Louis-San Francisco Railway Company

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

(1) The dismissal of Track Laborer Gary Elsworth on May 15, 1974 ~~was~~ without just and sufficient cause and in abuse of the Carrier's discretion (System File B-1162).

(2) Track Laborer Gary Elsworth shall be reinstated to service with seniority, vacation and all other rights unimpaired and with pay for all time lost; all in conformance with the provisions of Article 4, Rule **1(d)** of the Memorandum of Agreement effective June 28, 1955.

OPINION OF BOARD: Claimant was dismissed from service on May 15, 1974, for being absent from duty in the vicinity of Olathe, Kansas from May 6, 1974 through May 15, 1974, without obtaining permission from proper authority in violation of General Notice Paragraphs 3 and 4, General Rules A, B, and M, and General Regulations 176, 177, 189, and 195 of the Carrier's Rules for the Maintenance of Way and Structures effective July 1, 1973.

It is not denied that Claimant was absent from work without permission for a total of **26½** days between January 2 and May 15, 1974. The record clearly discloses that Claimant was verbally warned approximately 10 times about his unauthorized absences, and also received a written warning to the effect that if he missed any more work without notifying his foreman. he would be dismissed from service. Nevertheless, Claimant failed to report for work on May 6, 1974 and each day thereafter. The Carrier received no **communication** from him **whatsoever** attempting to secure authority for his absence or at least give some explanation therefor. Finally, at about 2:00 P.M. **on** May 15, 1974, Claimant **met the** gang at Olathe, Kansas, to get his personal belongings from the outfit car, and pick up his paycheck. At that time he talked to his foreman who informed him he had been dismissed from service.

**The** subject of this claim rests on the premise that the discipline of dismissal was exceedingly harsh under the prevailing **circumstances**. However, looking at the record on the whole, **we** find that the Claimant demonstrated **a** callous disregard for his employment

status when he failed to even attempt to secure authority for his absence, after having received numerous verbal and one written warning about his excessive absenteeism. Arbitrators generally uphold management's right to terminate **employees** for excessive absences. The principle is anchored in recognition of the fact that a stable work force is a critical ingredient to the proper functioning of an industrial **community**. To be more specific, efficiency and ability to compete in the market place are dependent upon **employees who** report for work with reasonable regularity. Consequently, the Carrier had the right to impose the discipline of dismissal on Claimant for his excessive absenteeism. (Awards 20653, 20549, 20509, 20505, 20407, 20174, 19787, 19112, **14601**).

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 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:

A.W. Pauls  
Executive Secretary

Dated at Chicago, **Illinois**, this 29th day of April 1976,