

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21384
Docket Number MW-21467

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 five (5) days imposed Upon Trackman Jose Hurtado was improper, unwarranted and without just and sufficient cause (System File D-11-17-102).

(2) The Agreement was violated when the General Chairman was not furnished with 8 copy of the investigation notice.

(3) The charges placed against Trackman Jose Hurtado be stricken from his record and he be compensated for all wage loss suffered.

OPINION OF BOARD: Claimant was assessed a five day suspension, after an investigation on the charge that he had failed to report for duty on the morning of November 15, 1974. Claimant had seven months seniority with Carrier.

The record indicates that Claimant was given 8 precise charge and the investigation was fairly conducted. At the investigation Claimant admitted that he did not report for work on the day in question and that he did not call his for- or anyone else to report that he would not be at work that day. It was not until two days later that he called in and said he would not be at work on November 18th. It must be concluded that Carrier was correct in determining that Claimant was guilty of the charge; furthermore the penalty assessed was, in the light of Claimant's record, quite commensurate with the offense. It is apparent, therefore, that the Claim is lacking in merit and must be denied.

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;

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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 28th day of January 1977.

