

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 21664
Docket Number CL-21632

Robert W. **Smedley**, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station **Employes**

PARTIES TO DISPUTE: (

(The Pittsburgh & Lake Erie Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood,
GL-8163, that:

(a) The Carrier violated the Rules Agreement, effective September 1, 1946, particularly Rule 20, when it assessed discipline of 15 days suspension on N. Roebuck, Storehouse Attendant, **McKees** Rocks, Pennsylvania.

(b) Claimant Roebuck's record be cleared of the charges brought against him on March 26, 1975.

(c) Claimant Roebuck be compensated for wage loss sustained during the period out of service.

OPINION OF BOARD: After hearing April 2, 1975, Claimant Nate Roebuck was suspended 15 days without pay for absenting himself from duty without proper **authority** on March 26, 1975, contrary to carrier's general rule J-1. He **had** been withheld from service pursuant to Rule 20 - DISCIPLINE, section (a); which reads:

"No **employe** shall be disciplined or dismissed without a hearing, but may be held out of service pending such hearing, which shall be prompt. At a reasonable time prior to the hearing, he shall be apprised of the charge against him and given opportunity to secure the presence of necessary witnesses."

The contention of claimant is that he had express or **implied** authority to leave. At the time he was 26 years old and had worked for the company six months as a storehouse attendant. On Wednesday March 26, 1975, claimant did report to work at about **7:30** A.M. He had been working the hi-lift the last few days but was told to go to the diesel shop, where work was piled up. When told he couldn't have a helper, and not feeling too well that day, claimant left under the impression that the Assistant Manager had said "go ahead - it didn't matter to him." The manager denies saying that and also denies hearing anything about claimant being *sick*.

The Assistant Manager's office was a rather hectic scene around 7:45 A.M. The manager was on and off the phone and six or eight people were milling in and out. We can perceive a misunderstanding taking place. But the carrier has made a prima facie case and there is no corroboration for claimant's rebuttal, his own co-workers saying he just walked out. The evidence and the investigation were fully adequate.

As to the discipline, Roebuck had a deferred five-day suspension for being absent without permission on January 3, 1975. He was given ten days more on this charge and the deferred five days was invoked. Claimant being a short-term **employee** with two such infractions, we cannot fault the degree of discipline.

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;

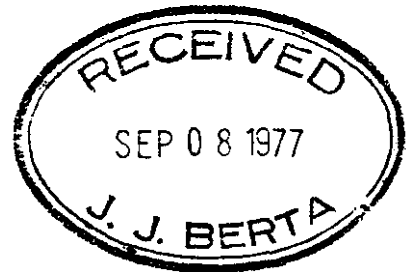
That the Carrier and the Employees involved in this dispute are respectively Carrier and **Employees** within the meaning of the Railway Labor Act, as approved June 21, 1934;

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

The Agreement was not violated.

A W A R D

Claim denied.



NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 18th day of August 1977.