NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 22276
THIRD DIVISION Docket Number CL-22238

Nathan Lipson, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes
(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8433) that:

(1) Carrier violated the Agreement between the parties, when on April 7, 1975, it imposed discipline of 10 days' actual suspension from service upon Cleaner William C. McClinton, as a result of an investigation held on March 20, 1975, and

(2) Carrier shall, as a result, be required to compensate Mr. William C. McClinton ten (10) days' pay at the rate of his position for the period April 14 through April 25, 1975.

OPINION OF BOARD: As a result of an investigation hearing on March 20, 1975, the Claimant received a ten (10) day disciplinary suspension, which was served from April 14 through April 25, 1975. Included in the notice of the March 20 hearing was the following:

> "You are charged with responsibility in connection with failure to properly protect your assignment of Cleaner and absenting yourself without proper permission on the dates of December 3, 1974; January 13, 17; February 3, 10, 11, 12, 13, 14; March 7, 11, 1975."

Claimant William C. McClinton was apparently exonerated for all dates set forth in the charge, except for December 3, 1974 and January 13, 1975. The Claimant did not deny that he had failed to call in or provide any reason whatsoever for the December 3 absence, but explained the January 13 absence as attributable to a death in the family. No substantiation of a death was provided at the hearing, but the Claimant conceded that he had failed to notify the carrier of the absence, and that he did not provide any excuse at the time.

During June, July, August, September and October, 1974, the Claimant was charged, and ultimately found culpable of being absent from work, and of having failed to advise management that he would not show, so that the assignment could be covered. Said derelictions caused the Carrier to impose a five-day disciplinary suspension from November 11 through November 25, 1974, inclusive.

In light of the five-day suspension which was imposed within a month of similar behavior in the instant case, management decided to impose the presently contested ten-day suspension. At the conclusion of the hearing, the Claimant's representative acknowledged guilt, and stated: "I would like to be obliged with a suspension held overhead for a period of time . . ."

In addition to appealing the carrier's decision on the merits, the Claimant argued to this Board that other witnesses should have been presented at the March 20 hearing, that there was an excessive delay, i.e., the period from December 3, 1974 to March 20, 1975, in proceeding against the Claimant. Neither of these positions was expressed at the hearing, so that the Board need not consider them presently. But it is, in any event, to be observed that neither of these arguments has merit.

Turning then to the merits of the case, it is quite clear that the Claimant acted irresponsibly in failing to protect his job on December 3, 1974 and on January 13, 1975. It has also been established that the Claimant so acted a short time after being disciplined for a similar offense. Since the Claimant served a five-day disciplinary suspension in November 1974, it can hardly be concluded that a ten-day suspension for the instant offense is excessive.

It should be self-evident that an employe has the duty to work the hours scheduled by his employer. All enterprises are dependent on the performance of scheduled duties by members of the work force, and it can only follow that an employe who fails to appear for his job without just cause violates the trust that his employer has placed in him. If the abwe is generally true, it must be especially the case for those who work for a carrier.

Occasions may arise when au employe is not able to appear as scheduled because of illness or compelling personal reasons. In such circumstances the very least that is to be expected is that the employe will timely notify management so that alternate arrangements can be made. Such has been the custom in all industry, and again this obvious requirement is especially necessary for an employe of a carrier. It can only follow that an employe who fails to abide by the above self-evident principles of the employer-employe relationship is subject to discipline. All of these observations certainly fit Claimant McClinton hand-in-glove.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oralhearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes 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. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 12th day of January 1979.