

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22287
Docket Number m-22174

Abraham Weiss, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Terminal Railroad Association of St. Louis

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

(1) The Carrier violated the Agreement when it **suspended** Track Laborer J. L. **Headrick** from service **for** one (1) day (April 19, 1976) without benefit of a fair and impartial investigation (System File **TRRA 1976-23/013-293-25**).

(2). Track Laborer J. L. **Headrick** now be allowed eight (8) hours of pay at his straight-time rate because of the violation referred to in Part (1) hereof."

OPINION OF BOARD: The facts are not in dispute. Claimant reported for work late and was sent home, losing a day's **pay**. He returned to work at his regular starting time the next day.

The Organization contends that Carrier's action in not permitting Claimant to start work **amounted to** a disciplinary suspension, in violation of **Rule 24(a)**, which reads in pertinent part:

"(a) An employee whose application has been approved will not be suspended or dismissed without being given a fair and impartial hearing,...."

Carrier, on the other hand, denies that its action constitutes discipline; no reprimand was issued nor any indication placed against Claimant's record. It argues that **Claimant** had made no prior arrangements about **reporting to work nor had he called to report** that he **would be late**; and that on the day in question there were no extreme or inclement weather conditions which might account for Claimant's lateness. Carrier also cites a long-standing and accepted policy of not allowing late arrivers to start work unless prior arrangements have been **made** with **their supervisor** or adverse weather conditions existed. Carrier also adds that **all employees**, when employed, are given a copy of Carrier **Rules**, which includes, as **Rule "P"**, "Employees must report at the appointed time...."

According to the record, Claimant had previously been admonished by Carrier with respect to his tardiness.

The Organization calls our attention to a number of prior Awards in support of its position. We have reviewed these Awards and find they are distinguishable from the facts and circumstances in the instant case.

We do find, however, that the identical matter was before this Board involving the same parties in Award 21598 (Smedley). The Board there found that "when there is an established rule, practice and reasonable penalty against tardiness, one day suspension is allowable without a hearing."

The parties and the issues presented in the dispute before us are identical to those in Award 21598. Adapting the principle of stare decisis and the value of precedent in orderly conduct of labor relations we, adopting the reasoning of that Award, will deny the claim.

The practice on this property has been, with certain defined exceptions, not to allow employees to work who do not arrive at their work station on time to perform their scheduled duties. None of the exceptions was applicable in the instant case.

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.

Award Number **22287**
Docket Number W-22274

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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.**