

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22297
Docket Number MU-22264

Louis Yagoda, Referee

(Brotherhood of Maintenance of Way **Employes**
PANTIES TO DISPUTE: (
(Burlington Northern Inc.

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

(1) The dismissal of **Sectionman** W. M. Baklund for 'absenting yourself from duty without proper authority, on January 6 and January 7, 1977' was without just and sufficient cause, excessive and wholly disproportionate to the offense with which charged (System File **T-M-191C/MW-20 3/30/77**).

(2) Sectionman W. M. Baklund be reinstated with seniority and all other rights unimpaired and he be compensated for all wage loss suffered."

OPINION OF BOARD: It was convincingly established at the investigation held on this matter that after having requested and being granted two successive days of vacation, Claimant took a third day off for vacation without requesting or receiving authority to do so from appropriate supervision and then took the next day off also, but on that day calling in some time between 8:00 a.m. and 9:00 a.m. to ask for vacation for that day (his regular scheduled **working** hours were 8:00 a.m. to **4:30** p.m.) The **supervisor** who replied to the latter call (and under whose **immediate** supervision Claimant is) refused permission, explaining that Claimant was needed because of urgency of work following a derailment. Claimant refused and did not appear for work that day.

The evidence reveals no compelling or unexpected circumstances which caused this failure of Claimant to protect his assignment. It also indicates that Claimant was aware of his responsibilities and required procedures in such cases and met neither. These actions involved violations of Carrier's **Rule** 665 of the Safety **Rules** of Maintenance of **Way** Department and in such a **manner** as to **justify** Carrier's conclusions that they were to be treated with severe disciplinary reaction.

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When account is also taken of Claimant's earlier disciplinary record, there is no basis on which to intrude on Carrier's imposition of the termination penalty.

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. Paulos*
Executive Secretary

Dated at Chicago, Illinois, this **31st** day of January **1979**.