

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22315
Docket Number NW-22413

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employes**
(The Chesapeake and Ohio **Railway Company**
(Southern Region (and **Hocking Division**)

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

(1) The dismissal of **Trackman Timmy** Burke because of allegedly unauthorized absenteeism on August **16, 19, 23, 27, 31, September 3, 7, 9, 10, 13, 14, 15, 17, 20, 21, 22, 23 and 24, 1976** was unduly and excessively harsh and wholly disproportionate to the offense with which charged (**System File MG-1731/C-MISC-372**).

(2) **The** Claimant shall be restored to his position as **trackman** with pay for all time lost, including incidental **overtime** and with seniority, vacation and all other rights unimpaired."

OPINION OF BOARD: On September 20, **1976**, Claimant was advised to attend an investigation concerning asserted unauthorized absenteeism. Subsequent to the investigation, **Claimant** was **dismissed** from service.

The Claimant admitted to a **number** of unauthorized absences and he testified that he permitted a very personal **family problem** to "...get involved with **my** work." In essence, the Claimant urges us to disallow the dismissal **from** service as being disproportionately harsh.

Our review of **the** record indicates **that** the **Employee** was absent on 18 days **during** a span of about five (5) weeks, and **that** he failed to give any advance notice prior to the absences. Nor do we find any specific **explanation** for the absences beyond the very general indication of "personal family problems."

We are not at liberty to substitute our **judgment** for **that** of Carrier in a dispute such as this unless we are convinced that the Carrier's actions are arbitrary, etc. Nothing has been presented to us which would warrant such a finding.

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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this **22nd** day of February 1979.

