

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22390
Docket Number MW-22449

George S. Roukis, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(Burlington Northern Inc.

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

(1) The **suspension** of ten (10) days imposed upon Machine Operator G. L. Bower for allegedly 'being absent **from** duty without proper authority **on** September 13, 1976 through and including September 17, 1976' was without just and sufficient cause, **un-**warranted and in violation of the **Agreement /System File T-M-190C/ Ma-20 3/29/77/**.

(2) The claimant's record be cleared of the charge placed **against** him and reimbursement be made for all wage loss suffered."

OPINION OF BOARD: Claimant appeals a ten (10) day **suspension** for allegedly being absent from duty without proper authorization from September 13, 1976 through September 17, 1976. He contends that such action was **unjust, arbitrary** and inconsistent with Agreement Rule **40(C)**.

The record in this instance shows that while Claimant because of illness was **allowed** to take a one **week's** vacation **from** August 9, 1976 through August 13, 1976, he did not secure further permission to **extend** this absence.

After a considerable lapse of **time**, Carrier then sent him a certified letter, dated September 8, 1976, advising him to report to **work on** Monday, September 13, 1976. The notice read in part,

"It has **become** apparent that you have missed work for an extended period of **time with no reason** or explanation furnished to this office."

It advised him to report to work **on** September 13, 1976.

In response Claimant argues that it was impossible for him to report to work on that day, since he had only received the letter on September 13, 1976. He contends that he tried to call his supervisors to apprise them of his circumstances, but was unable to make telephone contact with them until late in the afternoon on September 16, 1976. Because of these conditions he asks that his record be cleared of the charge preferred against him and that he be reimbursed for all wage loss suffered.

Our review of the record which focuses only on the time period contained in the allegation, indicates that while it was difficult, if not impossible for Claimant to report to work on September 13, 1976, since he had just received the September 8, 1976 notice that day, he was under a more compelling obligation to notify promptly his supervisors of his predicament.

Asserting that he was unable to contact them until September 16, 1976 was not enough. He could have made a more diligent and directed effort to reach them. His job was at stake and it is not unreasonable to expect more resourceful efforts to protect it.

Accordingly, having thus found that Claimant was absent from work without proper authorization, we will not disturb the penalty imposed.

We have not found any evidence that Carrier acted unreasonably, arbitrarily or capriciously when it suspended Claimant for ten (10) days.

We will deny the claim.

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

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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 27th **day** of April 1979.