

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 22474
Docket Number MW-22405

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of **Way Employes**
(St. Louis-San Francisco Railway **Company**

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

(1) The suspension of **Trackman** M. A. Rollins from January 3, 1977 up to but not including February 28, 1977 was without just and sufficient cause and, as a consequence thereof

(2) **Trackman** M. A. Rollins shall be paid for all time lost during the aforesaid period of suspension and the **charge** shall be stricken **from** his record, all as set forth in Agreement Rule 91(b)(6).. (System File R-1373-1)"

OPINION OF BOARD: Subsequent to an investigation, Claimant was terminated for unauthorized absence and neglect **of** duty. Thereafter, the termination was reduced to a sixty **(60)** day suspension.

On December 31, 1976, the **employe** was advised, by his brother, that the **employe's** six month old son **was** ill, and required medical attention. **He** "...**put** my tools away and tried to get my car started... I left and went home." **He** testified that the only telephone available to call an official was located one and one-half miles away. He went home, got his wife and the baby, and went to the doctor's office.

The Claimant asserts that (because the child had been ill the preceding night) he had told the **Watchman** that he would be leaving early that day, and he did not know that the **Roadmaster** had returned from vacation. On the next work day, he told **his** Foreman **not to** mark him on the payroll for 8 hours on December **31, 1976.**

Carrier disputes Claimant's assertion that he left all switches **in** proper condition, and that his absence did not affect the operation.

The Carrier's action was not, **in our view, inappropriate.** Certainly, we respect the fact **that a father would show a significant** concern for an ill child. But, **the Claimant's** assertion that **there** was an "emergency" doesn't **convince us that an emergency actually** existed under this record. We feel **that the Claimant** could have **taken** much more direct action to notify the **Carrier** of a necessity to leave, or, at least, he could have attempted to enlist **the aid of** his **brother in** that regard.. **Such** action was, we feel, clearly indicated **within the** time frames and "urgencies" **of the situation.**

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

That the parties waived oral hearing;

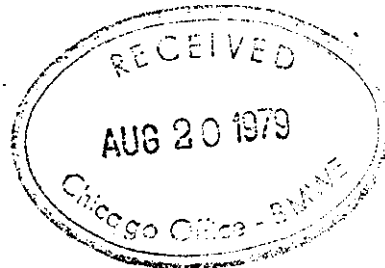
That the Carrier and the **Employees** involved in this dispute are **respectively** Carrier and **Employees within the** meaning of the Railway **Labor** Act, as approved June 21, 1934;

That this Division of the **Adjustment** Board has jurisdiction **over the** dispute **involved herein; and**

Pat the **Agreement** was not violated.

A W A R D

Claim denied.



NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Paulina
Executive Secretary

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