

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22485
Docket Number MS-22759

Paul c. Carter, Referee

PARTIES TO DISPUTE: (Roger L. Jividen
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex parte submission on September 23, 1978 covering an unadjusted dispute between Roger L. Jividen and the Consolidated Railroad Corp. I was charged with walking off the job on April 11, 1978. I had an hearing on May 16, 1978, and I was dismissed on May 17, 1978. I did not walk off the job on April 11, 1978, I had informed the timekeeper and my supervisor that I was taking my vacation. I was working on tie gang 818 in Marion, Ohio and my Supervisor's name was James Boyd. Boyd denied that I told him. On this tie gang everybody had to sign in at the beginning of their shift and on this April 11, 1978 sign in sheet, I didn't sign in on this day because I was going on vacation and when they had my hearing on May 16, 1978, they asked if I signed in on April 11, 1978 I said no. Then James Boyd said yes, that I had. But I didn't. The next day James Boyd took the sign in sheet to the office with my name on it and the Divisional Engineer dismissed me this same day. I saw the sign in sheet and my name was on it, but it was forged. They even spelled my last name wrong. I have appealed my case with the company and the union. I have heard from the company but I haven't heard from the union. The company said, that I was guilty as charged. I sent this company a copy of the sign in sheet with my signature on it and I told them that it was forged and I told them that TK818 had no vacation schedule posted like they are supposed to have, I even requested a lie detector test be given all parties involved. But the company never said, anything about this, they just wanted to get rid of me fast. I'm sending copies of this sheet where they forged my name. I also have a paper with signatures of employees on TK818 stating that there was no vacation schedule posted up to the date of May 16, 1978. I feel that Consolidated Rail Corp. of Columbus, Ohio has done me wrong on this decision. If you need any more information let me know."

OPINION OF BOARD: The record is clear that the claim that the Petitioner is asserting before the Board has not been handled and appealed on the property in accordance with the requirements of

Section 3, First (i) of the Railway Labor Act, Circular No. 1 of the National Railroad Adjustment Board, or the rules of the applicable agreement covering the craft in which claimant was employed. The claim must, therefore, be dismissed by the Board.

If the claim were properly before the Board, it would be denied on its merits. The transcript of the hearing conducted on May 16, 1978, shows that when claimant's request, made on April 1, 1978, to begin his vacation on that date, was denied, he simply walked off the job. An employee cannot be permitted to take matters into his own hands in such a manner.

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 Employee involved in this dispute are respectively Carrier and Employee 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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 24th day of August 1979.