

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22527  
Docket Number MW-22690

Paul C. Carter, Referee

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

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

(1) **The** dismissal of Track Laborer Eddie L. **Sturdivant, Jr.** was without **just** or sufficient cause; was capriciously and arbitrarily imposed; was extremely disproportionate to the offense with which charged (System File **C(So)-D-492/MG 1951**).

(2) The Carrier shall reinstate Claimant **Sturdivant** to service with **pay** for **all** time lost."

**OPINION OF BOARD:** **Claimant had been** in carrier's service about **four and** one-half years, and in July, **1977**, was regularly assigned to Force **1121**, with headqwrters at **Elk**, West Virginia.

Following investigation conducted on August **9, 1977**, **claimant** was notified on August **19, 1977**, that he was dismissed from service for being absent from duty without permission on July **18, 20, and 21, 1977**.

We have reviewed the transcript of the investigation conducted on August **9, 1977**, and find substantial evidence to support the charge for which **claimant** was dismissed.

The record also shows that this was the fourth assessment of discipline against **claimant** for similar offenses. It is apparent that the prior discipline did not have the desired effect.

The claim will be denied.

**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 28th day of September 1979.