

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22532
Docket Number MW-22442

William M. Edgett, Referee

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

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

(1) The discipline of Trackman L. D. Simmons for alleged 'violation of Rules 189 and 176' was arbitrary, unwarranted and on the basis of unproven charges (System File A-9401).

(2) The claimant's personal record be cleared of the charges placed against him and reimbursement be made for all wage loss suffered from and including January 11, 1977 to January 25, 1977, all in accordance with Rule 91(b)(6) of Article 11."

OPINION OF BOARD: Claimant was discharged for violation of Rule 189, which reads:

"Employees must not absent themselves from their duties, exchange duties with nor substitute others in their place, without proper authority."

The record shows that Mr. Simmons was under a Doctor's care, was advised not to work during the period in question, and gave Carrier proof of his illness. He did not have a telephone but arranged for a fellow employe to give timely notice of his illness to his foreman.

Based upon the above considerations the Board will sustain 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 Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

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

That the Agreement was violated.

A W A R D

Claim sustained.

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.