

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22842  
Docket Number **MW-22634**

Richard R. Rasher, Referee

(Brotherhood of Maintenance of Way **Employees**  
PAKCIES TO DISPUTE: (  
(National Railroad Passenger Corporation

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

(1) The suspension of thirty (30) days imposed upon **Trackman**  
W. J. Smith (Local Chairman) for allegedly 'walking off the job without  
permission on August 5, 1977' was without just and sufficient cause,  
unwarranted and on the basis of unproven charges.

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

OPINION OF BOARD: Claimant was assessed a **30-day** suspension on  
August 30, 1977, for allegedly walking off the job  
without permission on August 5, 1977. Carrier imposed the discipline  
**following** a hearing held on August 23, 1977, at which it was determined  
that Claimant violated the standing rules concerning absence from duty  
for the purpose of attending to official union business.

On August 5, 1977, Claimant was assigned as **Watchman** for the  
North Philadelphia Interlocking Gang, **8:00** a.m. to **4:30** p.m. shift.  
At a few minutes before 10:00 a.m., on August 5, 1977, a group of **six** of  
Claimant's constituents called Claimant and informed him that they  
needed his **immediate** presence for urgent union business at the 30th  
Street Station. In his haste to reach the 30th Street Station by the  
next available train, the '957 Trenton Local,' Claimant asked a  
qualified watchman to relieve him. Claimant also asked the watchman  
to inform his **foreman** that Claimant was on official union business.

The standing rules concerning absence from duty required  
Claimant to inform his foreman that he would be absent for official  
union business. **Claimant** was aware that any absence not prearranged  
with his foreman would be dealt with as an unexcused absence.

Claimant defends his actions of August 5, 1977, by the urgency  
of the situation and by the fact that his **foreman** was not on the tracks  
when the call came in from Claimant's constituents. **Claimant found**

himself in a precarious position: Should he leave **immediately** and fulfill his responsibilities as a representative? Or should he delay his departure and follow the rule on absences from duty by first notifying his **foreman**? By choosing the former, Claimant failed to fulfill his responsibilities as an **employee**. This failure cannot be condoned.

Although the record supports a finding of Claimant's guilt, the **30-day** suspension should be reduced to a **15-day** suspension. In light of mitigating circumstances, including the foreman's unavailability, the urgency of the circumstances and the fact that **Claimant** did find a **replacement**, suspension should be reduced as stated above.

**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** discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois, this 16th day of May 1980,