NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 22877
THIRD DIVISION Docket Number MW-22993

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(The Kansas City Southern Railway Company

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

(1) The dismissal of Laborer W. C. Stewart for 'unauthorized absences from work on March 23 and May 1, 1978' was unwarranted and wholly disproportionate to the charge leveled against him. (Carrier's File 013.31-205)

(2) Laborer W. C. Stewart shall be reinstated and compensated for all wage loss suffered."

OPINION OF BOARD: Claimant, a laborer in Carrier's service, was dismissed for failure to protect his assignment on March 23 and May 1, 1978. Prior to taking action, Carrier held an investigatory hearing to look into the matter. The stenographic notes from that hearing have been made a part of the record of this case. A review of that record reveals that claimant was afforded all substantive procedural rights required by contract. A fair and impartial hearing into the matter took place.

At the outset of this discussion, it must be pointed out that claimant was not present at the hearing called to investigate his absence on the two days cited in the charges. He was, however, given proper notice by Carrier about the hearing time and place. Carrier postponed the hearing at the Organization's request on one occasion. Claimant did not appear at the rescheduled hearing, but his general chairman was present.

The general chairman obtained a commitment from Carrier that if it could be demonstrated that claimant was unavoidably prevented from attending, Carrier would reconvene the hearing at a later date. The record is barren on that point. Claimant did not appear at a later date, nor did he offer an excuse for not attending the hearing as scheduled. He failed in this regard at his own peril and therefore cannot be heard to say that he was denied any of his rights.

The record of this case reveals that claimant was absent without permission on March 23, 1978, and late for work on May 1, 1978. When viewed by themselves, these would not be rule infractions that would call for dismissal from service. This, however, was not an isolated instance in claimant's work history. As frequently is the case where excessive absenteeism and tardiness is present, this was "the straw that broke the camel's back."

The last instance of absenteeism or tardiness may not be grounds for discharge if viewed singularly, but when viewed in light of an employe's total work record, it constitutes the trigger for such an action by carrier.

Claimant has been discharged for violation of Carrier Rule Q (attendance rule) once before. He was reinstated by Carrier on a leniency basis after being out of service for about three months. He knew the rules; he saw fit to violate them. His behavior did not improve after his reinstatement; he did not respond to Carrier attempts at his rehabilitation. The need for employes to appear at work on a regular and timely basis is well known in industrial relations and has a special importance in the railroad industry, where time schedules are critical.

This Board need not comment further on this point. It is our opinion, based on the record before us, that Carrier was justified in its actions in this instance.

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 Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as apprwed 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. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 18th day of June 1980.