

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23137  
Docket Number MW-23267

Paul C. Carter, Referee

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

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

(1) The dismissal of **Trackman Doc Mickens** for alleged excessive absenteeism was without **just and** sufficient cause and a violation of the **Agreement** (System File B-1464).

(2) **Trackman Doc Mickens** shall be reinstated with seniority and all other rights unimpaired and he **shall be** compensated for **all wage** loss suffered."

**OPINION OF BOARD:** The record shows that claimant was **employed** as a **trackman** on April 9, 1974. At the **time** of the occurrence giving rise to the dispute **involved** herein, he was assigned to System Rail Gang No. 2, working in the vicinity of Winslow, Arkansas, under the supervision of Assistant Roadmaster L. A. Neill and Foreman J. W. Johnson.

On February 20, 1979, claimant was dismissed from service for excessive absenteeism, in violation of **Carrier's Rule 189**, which reads:

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

Upon request of the **Organization**, a formal investigation was **scheduled** for claimant, **commencing** at 8:30 a.m., **March 22, 1979**. The claimant did not appear for the investigation, which was conducted in his absence. About a month later the **Organization contended** that the reason for the claimant not **appearing at the investigation on March 22, 1979, was because of** car trouble.

It **would appear reasonable** that if **claimant's failure to** appear at the investigation on March 22, 1979, was due to car trouble, that he would have at the **time** contacted his superior officers or the Organization representative and explained the situation; however, he did not do **so**.

There was substantial evidence adduced at the investigation conducted in claimant's absence on March 22, **1979**, that claimant was absent without permission on February 20, 1979. The record also shows that claimant had previously been **disciplined** for absenteeism and had been warned on numerous occasions.

On the entire record, there is no proper basis **for** the **Board** to interfere with **the discipline imposed** by the Carrier. 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 30th day of January **1981**.

