

THIRD DIVISION

Carlton R. Sickles, Referee

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

(1) **The** discipline assessed **Trackman** J. C. Johnson for alleged violation of Rule **189** was **without** just and **sufficient** cause and wholly **disproportionate** to such charge (**System** Pile **B-1838**).

OPINION OF BOARD: Claimant was dismissed for being absent without authority on April 23, 1979. Claimant objects to his work history being taken into consideration by the Carrier in deciding to dismiss him. The work history was made part of the record, over the objection of the claimant, in the formal Investigation which was held on May 29, 1979.

The **Carrier** may take into **consideration** the **claimant's** work history which may demonstrate a pattern of behavior upon which the **Carrier** may judge the **incident** in question.

On the day of dismissal, the claimant who was employed as a track man was part of a gang which lived in a bunk car. A bus takes the employee to the work site each morning. He was awakened three times in time to catch the bus. The third time he said he did not want to mess with it and went back to sleep. The claimant had returned to the bunk car at 5:30 A.M. after partying at a place about 145 miles from the bunk car.

Two days before, the claimant had missed work because he claimed he was too sick to work.

A review of his work history reveals that he entered the service April 20, 1978. He was out of service from November 9, 1978 to March 1, 1979 because of unauthorized absence from the gang.

Since his return to service in March, he has continually missed time. The Carrier has been cooperative and accepted the excuses proffered by the claimant when he has claimed to be sick. He was granted vacation time when he hurt his finger and requested the time off. The Carrier authorized further time off when he claimed he didn't have the money to return from his home to the job site.

It is obvious from a review of the record that the claimant has demonstrated little regard for his responsibilities to his employment.

The Organization has done a noble job in attempting to justify each absence separately, but to hold that the Carrier's cooperative posture should cloud an obvious pattern of absenteeism is not justified.

The claimant's statement that he overslept and didn't have time to get dressed, when in fact he was awakened on three occasions with time to get dressed, is obviously untrue. The Carrier was justified in its dismissal action.

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;

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

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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. Pauler
Executive Secretary

Dated at Chicago, Illinois, this 15th day of April 1981.