

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23408  
Docket Number MW-23412

Paul C. Carter, Referee

PARTIES TO DISPUTE: {  
(Brotherhood of Maintenance of Way Employees  
(The Washington Terminal Company

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

(1) The dismissal of Trackman Calvin L. Chapman for alleged 'Excessive Absenteeism' was without just and sufficient cause and wholly disproportionate to the charge leveled against him.

(2) Trackman Calvin L. Chapman shall be reinstated with seniority unimpaired and compensated for all wage loss suffered."

OPINION OF BOARD: Claimant had been in Carrier's service approximately two years. On July 25, 1979, he was notified to report for a hearing on August 3, 1979, on the charge:

"Excessive absenteeism when you were absent from work for all or part of the following dates:

|                |               |
|----------------|---------------|
| February, 1979 | 14, 26        |
| March, 1979    | 5, 26         |
| April, 1979    | 5             |
| May, 1979      | 9, 25         |
| June, 1979     | 5, 13, 18, 20 |
| July, 1979     | 11, 16, 18    |

"You may be accompanied by any witnesses of your own choosing and your duly accredited representation without expense to the Washington Terminal Company. Please be advised that it is your sole responsibility to contact your representative and not that of the Washington Terminal Company. You will be expected to be present throughout the entire hearing and you and your representative may cross-examine the witnesses."

The hearing was held as scheduled, and on August 8, 1979, claimant was dismissed from service.

In the investigation conducted on August 3, 1979, a transcript of which has been made a part of the record, claimant stated his absences were due to "sick;" "woke up not feeling well;" "bowel movement trouble": "trouble with back." No medical evidence was submitted to show that claimant was not able to work because of illness.

The record also shows that claimant was disciplined on four prior occasions for absenteeism - a 5-day suspension, a 15-day suspension, a 30-day suspension, and another 15-day suspension. It is apparent that the prior discipline did not have the desired effect.

Based upon the record, we find no proper basis for the Board to interfere with the discipline imposed by the Carrier.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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:

Executive

Secretary

*A. W. Paulos*

Dated at Chicago, Illinois, this 3rd day of November 1981.

