

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23417
Docket Number MW-23285

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (**Brotherhood** of Maintenance of Way **Employees**
(**Terminal Railroad** Association of St. Louis

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

(1) The ten (10) day suspension imposed upon Track Laborer Stanley M. **Sumling** for allegedly failing to protect **his assignment** on November 1, 1978 was without just and sufficient cause and on the basis of unproven charges (System File **TRRA 1979-1**).

(2) The claimant shall be compensated for all wage loss suffered."

OPINION OF BOARD: On November 1, 1978, claimant, S. M. Sumling was a regularly assigned track laborer in System Gang No. 4. He did not report for work on that date, but rather called in at 7:50 a.m. to report off, account he overslept. Track Supervisor **Stogner** told claimant to **come** in, even though he was late, because he was needed. Claimant told **Stogner** that he was going to the hospital to get a doctor's release slip. He was informed that he did not need such a slip.

Claimant was not heard from again until he arrived at work on November 2, 1978. He was charged with failure to protect his assignment. A hearing was held in the matter on November 16, 1978. At the conclusion of that hearing, Carrier found claimant guilty as charged and assessed a 10-day suspension.

A review of the transcript of the hearing and the remainder of the record of this case reveals that claimant was granted a full and fair hearing and that **Carrier** did not **violate** the agreement by finding claimant guilty of failing to **protect** his assignment. Further analysis reveals that a 10-day suspension in this **instance** was justified.

Claimant was **given** an opportunity to produce a doctor's statement to corroborate his story that he was **under** a doctor's care and taking **medi-**cation on the day in question. He failed to **produce** that evidence. It can only be concluded from this failure that claimant could not, in fact, obtain such a document.

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. Paulson

Executive Secretary

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

