

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23840
Docket Number MW-23695

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employes
{ Seaboard Coast Line Railroad Company

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

(1) The discipline (fifteen demerits) imposed upon Trackman R. K. Carmichael for alleged violation of Rule 17 was unwarranted and an abuse of justice and discretion (System File C-4(13)-RKC/12-39(79-22) J).

(2) The claimant's personal record shall be cleared of the charge leveled against him and said discipline shall be expunged therefrom."

OPINION OF BOARD: The Claimant was charged with reporting to work late on October 31, 1978; which letter of charge also alleged that the Employee had been "warned repeatedly" about reporting late for work.

Subsequent to the hearing, the Employee was assessed fifteen (15) demerits, but was not suspended for any period of time.

There seems to be no question that the Employee was approximately two hours late for work, however he indicates that he had previously worked an extensive period of overtime, and that his wife was undergoing certain childbirth problems which resulted in his oversleeping. However, we note that the Employee conceded that he did not have an alarm clock, but rather relied on his wife to awaken him.

Our review of the record shows that the Employee was guilty of the offense, and it appears that even though the Employee's prior record for reporting late for work within the short period of time he was employed might have justified a more severe disciplinary action, the Carrier did take into account the mitigating circumstances concerning the Employee's wife's condition and the hours he had worked prior to the day in question.

Under the circumstances, we are not able to conclude that the Carrier's assessment of discipline in this case was excessive, arbitrary or capricious, and we will deny the claim.

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;

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That the Carrier **and** the **Employes** involved **in** this dispute are respectively Carrier and **Employes** 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: Acting **Executive** Secretary
National Railroad Adjustment Board

By *Rosemarie Brasch*
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of March 1982.

