

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23995
Docket Number MS-23911

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: { (Steven R. Fogle
 } Consolidated Rail Corporation

STATEMENT OF CLAIM: "This is to serve notice, as required by the Rules of the National Railroad Adjustment Board, of my intention to file an ex parte submission on September 4, 1980 covering an unadjusted dispute between me and the Consolidated Rail Corporation involving the question:

Dismissal from employment for days missed (July 9, 10, 11, 12,)

Said days were vacation days awarded to me by the Philadelphia office.

I was dismissed on a second trial without an opportunity to waiver for suspension rather than discharge. I don't believe that this is in full accord with our labor agreement."

OPINION OF BOARD: Claimant S. R. Fogle, a Trackman, was served with a notice of hearing dated September 19, 1979 in connection with the charge of unauthorized absences in July and August, 1979. The hearing was held on September 25, 1979 and Claimant was dismissed on October 2, 1979.

A review of the record before this Board establishes that Claimant was absent without permission during July and August, 1979 and that there was substantial evidence to sustain the Carrier's decision to discipline Claimant. Given Claimant's prior record of a written warning, a ten day suspension, and a previous dismissal only to be returned to service on a leniency-final warning basis, all for unauthorized absences, the penalty of dismissal was reasonable.

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: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 17th day of September 1982.

