

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24218
Docket Number MM-24305

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Union Pacific Railroad Company

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

(1) The Carrier violated the Agreement when it improperly closed the service record of Extra Gang Laborer F. J. Lopez (System File 6-22-11-14-55/013-210-1).

(2) Extra Gang Laborer F. J. Lopez be returned to service with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: The Claimant, F. J. Lopez, was employed as an Extra Gang Laborer at the Carrier's welding plant in Laramie, Wyoming, with service since September 15, 1978. On May 1, 1980, the Carrier informed the Claimant that as a result of his being absent for five consecutive work days without authorization, he was considered as having voluntarily forfeited his seniority rights and employment relationship. The Carrier based its action upon Rule 48K, which states:

"Employees absenting themselves from their assignments for five (5) consecutive working days without proper authority shall be considered as voluntarily forfeiting their seniority rights and employment relationship, unless justifiable reason is shown as to why proper authority was not obtained."

Examination of this record discloses no reason existed to justify Claimant's failure to secure authorization to be absent. Having absented himself from duty on April 18, 21, 22, and 23, 1980, the Claimant accepted a fifteen day deferred suspension on April 24, 1980. He was instructed to report to his regular assignment on April 25. He not only failed to do so, but, despite receipt of the Carrier's notice of May 1, 1980, by Claimant's wife the next day, Claimant made no attempt to contact the Carrier until May 12, 1980.

Under the circumstances, this Board has previously held that rules, such as Rule 48K herein, are self-invoking and discipline was not involved in this dispute. Therefore, we cannot agree with the Organization's position that the Carrier improperly closed the service record of the Claimant having found no justifiable reason for his failure to secure proper authorization to be absent.

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.

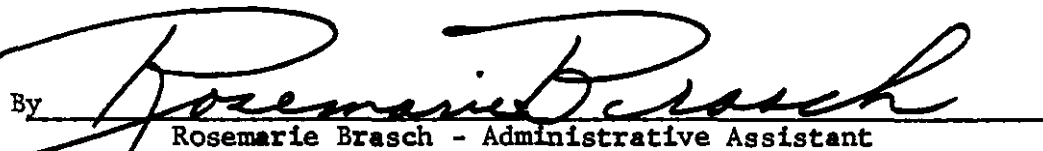
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated **at** Chicago, Illinois, this 14th day of March 1983.

