

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24309
Docket Number MW-24170

Edward L. Suntrup, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**
(Missouri Pacific Railroad Company)

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

(1) **The dismissal of Trackman K. A. Govant for being** absent from work 'on January 2, 1980, without proper permission and/or authority' was excessive and **wholly disproportionate** to the offense with which charged (Carrier's File s 310-334).

(2) **Trackman K. A. Govant** shall be reinstated with seniority, vocation and **all** other rights unimpaired and he shall be compensated for **all** wage loss suffered including **holiday** pay."

OPINION OF BOARD: **Claimant, Mr. K. A. Govant,** entered service of the Carrier as a **trackman** on July 7, 1976. On **January 10, 1980** he received notice to report for **formal** investigation on January 17, 1980 to:

"develop the facts **and place** responsibility, if **any**, in connection with (his) absenting (himself) from (his) duties as **trackman** on Gang **5492**, working **Longview** Subdivision. on **January 3, 1980**, without proper permission **and/or authority**."

The **hearing date** was subsequently postponed and rescheduled for **February 5, 1980**. Claimant did not attend this **hearing**. On the **same date** a second hearing was held to attempt to **determine** why Claimant **also** did **not** attend the **hearing** **originally** scheduled for **January 17, 1980** which was the **reason** why that hearing was rescheduled for **February 5, 1980**.

By letter **dated February 6, 1980** Claimant was notified by the **Carrier** that he **was** dismissed **from** service.

A **review** of the transcripts of both **hearings** indicate that sufficient substantial evidence is present to **warrant** the discipline imposed by the Carrier. There is **unrefuted testimony** that Claimant did not **return** to work at **6:30 P.M.** on **January 2, 1980** as he was instructed to do, nor **did** he make **any** attempt to **notify** the Carrier **that** he could not cover his assignment on that day. This Board has gone **on record numerous** times to the effect **that** absence without authority **can** merit discharge **from** service (See Third **Division 10974, 16860, 21004 inter alia**). There is also **irrefuted** testimony to the effect that the **Claimant** simply disregarded the notice for the **investigative hearing** which was to be held on **January 17, 1980**. Public Law Board No. 2010 (Award 15) establishes precedent, which this Board cites with favor, that **employees** are not to be granted the right to boycott investigations **with** impunity.

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 14th day of April 1983.

