

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24395
Docket Number MW-24464

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees
{ Norfolk and Western Railway Company
{ (former Illinois Terminal Railroad Company)

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

(1) The five (5) days of suspension imposed upon Mr. M. J. Stewart for alleged violation of 'Rule P' was without just and sufficient cause and an abuse of justice and discretion by the Carrier (System File ITRR 1980-44).

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

OPINION OF BOARD: Claimant, M. J. Stewart, is employed by Carrier as a Large Machine Operator. On October 31, 1980, he was absent from work account ill with flu virus. He was not able to contact Carrier to report off sick until November 3, 1980. He returned to work on November 10, 1980. On November 7, 1980, he was served with charges directing him to appear at a hearing to determine his responsibility for being absent from work on October 31, 1980, and for not reporting off.

The hearing was held as scheduled. At its conclusion, Claimant was found guilty as charged and assessed a five-day suspension. A transcript of that hearing has been made a part of the record of this case.

A review of that record reveals that Claimant was afforded a full and fair hearing and that Carrier had justification for assessing a five-day suspension. Carrier concluded at the end of the hearing that Claimant could have and should have made more than just one attempt to call in and report off. Given Claimant's failure to exert a best effort to report off and his past record of absenteeism and counselling, Carrier assessed a five-day suspension.

This Board sees no basis in this record or applicable arbitral principles on which to upset Carrier's actions. Claimant does have a responsibility to report off and his effort in this case fell short of what is required.

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 Employee involved in this dispute are respectively Carrier and Employee 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 **May 1983**.

