

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24555
Docket Number MS-24200

John B. LaRocco, Referee

PARTIES TO DISPUTE: (Gary A. Patience
(
(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 June 18, 1981 covering **an unadjusted dispute** between me and the Consolidated Rail Corporation involving the question:

My discharge "as inequitable and erroneous because I followed the instructions of the Station Master and, therefore, my lateness "as excused."

OPINION OF BOARD: Claimant, a Train Caller, Reading Terminal, Philadelphia, Pennsylvania, received a notice of investigation charging him with the following offense:

"Absenting yourself from duty without permission by reporting late for your assignment March 11, 8 mins.; 12th, 7 mins.; 13th, 8 mins.; 14th, 10 mins.; 17th, 10 mins.; 18th, 31 mins.; 20th, 7 mins.; 21st, 7 mins.; 24th, 9 mins.; 25th, 54 mins.; 27th, 52 mins.; April 2nd, 2 hours, 10 mins.; 3rd, 1 hour, 18 mins.; and review of your service record."

The hearing "as rescheduled by mutual agreement from April 17, 1980 to April 22, 1980 and following the hearing, Claimant "as notified of his dismissal effective April 30, 1980.

At the hearing, the station master, Reading Terminal, reviewed the timecards for the dates listed in the charge which established that **Claimant** "as habitually late in reporting for his assignment. At the hearing, Claimant admitted his derelictions proffering the excuse that he endeavored to correct the problem apparently without success. There "as substantial evidence to sustain the Carrier's decision to discipline **Claimant**.

Claimant's relatively short period of employment discloses that reporting late for duty and marking off without permission has been a chronic problem for which he has been disciplined in the past. The Carrier has previously granted leniency to Claimant, but apparently feels that such consideration is no longer suitable for this employee. In view of his poor record, termination was not unreasonable.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds;

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

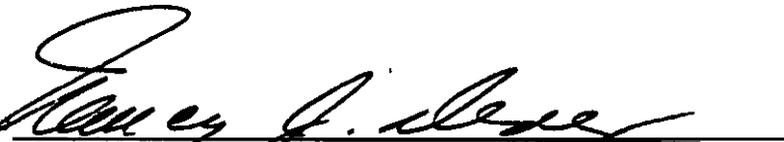
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest



Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 4th day of November, 1983

