

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24559
Docket Number MW-24682

William S. Coleman, Referee

PARTIES TO DISPUTE: (**Brotherhood of Maintenance of Way Employees**
(Consolidated Rail Corporation
(**(former Penn Central Transportation Company)**

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

(1) The Carrier, without just and sufficient cause and on the basis of unproven charges, improperly disciplined Truck Driver H. F. **Monsour** on charges that

(a) he was allegedly absent without authority on September 10, 20 and 24, 1979 (System Docket No. 599);

(b) he allegedly failed to report for work at the proper time on September 5, 7, 12, 13, 21 and 27, 1979 (System Docket No. 599);

(c) he allegedly failed to follow the instructions of Assistant Production Supervisor C. W. **Hollobaugh** at 9:30 A.M. on October 4, 1979 (System Docket No. 598).

(2) The above charges be stricken from the claimant's record and that he shall be compensated for all wage loss suffered."

OPINION OF BOARD: This claim brings into review the action of the Carrier in two separate acts of discipline.

Claim 1. Unauthorized absences and failure to report for work at the proper reporting time.

Claim 2. Failure to follow the instructions of his supervisor.

A hearing on Claim One was held on November 8, 1979. As a result of that hearing, Claimant was assessed ten (10) days suspension from service. The transcript of that hearing is a part of this record. A review of that transcript reveals that the Claimant was absent on the dates at issue and that fact is uncontested in the record. The Organization has offered mitigating circumstances on his behalf as explanation of his absences and tardiness, but this Board has consistently sustained the Carrier's right to insist on strict adherence to the agreed working hours. Employees must report to the work site and be prepared to begin their duties at the prescribed time. The Carrier is correct in not tolerating tardiness and absenteeism. However, discipline of 10 days is considered excessive by the Board and is hereby reduced to a 5 day suspension.

A hearing was held on Claim Two on October 24, 1979. The record shows that Claimant was assessed fifteen (15) days suspension which was later reduced on December 17, 1979, to five (5) days suspension. After a careful review of the record, the Board concurs with the Carrier that an employee cannot select which instructions he chooses to follow, The Claimants discipline of five (5) days suspension is commensurate and no change shall be made in the discipline assessed.

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

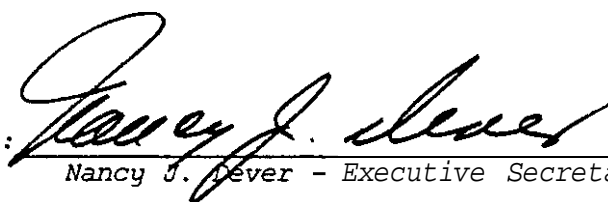
That the Agreement was not violated except that the discipline in Claim (1) was excessive.

A W A R D

Claim sustained in accordance with Opinion

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 17th day of November, 1983.

