

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 24671
Docket Number Mw-24491

Edward M. Hogan, 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 Agreement was violated when the Carrier terminated its employment of Carpenter D. B. Green on November 7, 1980 (System File 6-23-11-14-55).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired **and** he shall **be** compensated for all wage loss suffered.

OPINION OF BOARD: On November 7, 1980, the Carrier advised the Claimant by certified mail that because he had voluntarily absented himself from his assignment during the week of October 27, 1980 through November 7, 1980, without authority and without notification to the Carrier., the Carrier was considering this absence as a voluntary forfeit of his seniority rights and employment relationship with the Carrier pursuant to Rule 48(k) of the agreement, which is cited below:

"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.**"

The Organization contends that the action of the Carrier **was improper** and that a **formal** investigation should have been conducted. The Carrier argues that the claim is procedurally deficient, and should not be before this Board; the Carrier further argues that its application of Rule 48(k) of the agreement was proper.

Usually this Board **would** discuss and consider both the procedural and substantive aspect of matters **before** it. **However**, in this claim, we elect to not comment on the procedural arguments of the Carrier and rule on the merits of the claim for **we** find that the application of Rule **48(k)** of the controlling agreement was correct, and that this claim has no merit. We **cannot** give credence to the Claimant's post-occurrence application to request that vacation time **be** applied to the times he was absent without authority or permission. We agree with the position of the Carrier that Claimant **was** solely responsible for his plight, and a contention that the Carrier was somehow responsible for Claimant's absence is **an** argument which cannot prevail.

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 **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

Attests:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois this 24th day of February, 1984

