

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24872  
Docket Number MW-247C

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Consolidated Rail Corporation (former Lehigh Valley  
( Railroad Company)

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

(1) The Carrier, without just and sufficient cause, on the basis of unproven charges and in violation of the Agreement, improperly disciplined Trackman G. Kline on the charges that

(a) he allegedly falsified his time on October 24 and 25, 1979 (System Docket LV-201);

(b) he allegedly was absent from his assignment on November 12, 13, 15, 16, 20, 27, and 29, 1979 without authority (System Docket LV-199);

(c) he allegedly was insubordinate and that he deliberately damaged Company property (System Docket LV-200).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, his record be cleared of the above charges and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Trackman G. Kline, the Claimant, had, at the time of his dismissal, over two years service with the Carrier. On November 13, 1979, the Claimant was given notice of an investigation to be held on December 6, 1979, in connection with the charge he falsified his time cards for October 24 and 25 claiming eight hours work each day when, in fact, he was absent from work. The hearing was held on December 18, and Claimant was assessed discipline of thirty demerits.

On December 4, 1979, Claimant was given notice to appear at an investigation on January 10, 1980, in connection with his charged unauthorized absence from assignment on November 12, 13, 15, 16, 20, 27, and 29, 1979. The hearing was postponed and rescheduled and held on March 12, 1980. The Claimant did not appear. As a result of the investigation, Claimant was assessed twenty demerits.

On December 21, 1979, Claimant was instructed to appear at an investigation to be held on January 8 on a charge of insubordination. The hearing was held as scheduled without the presence of the Claimant, and he was, thereafter, assessed a penalty of forty-five demerit points.

On April 1, 1980, the Claimant was notified of the assessment of the twenty demerits issued as a result of the March 12 hearing for unauthorized absence. When added to the forty-five demerits assessed for the insubordination charge, the total of ninety-five equaled dismissal by Carrier in all capacities.

This Board's review of the entire record, which incorporated the transcripts of all three investigations, leaves us to conclude the Carrier's assessment of demerits and, ultimately, the Claimant's dismissal was supported by substantial evidence.

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 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

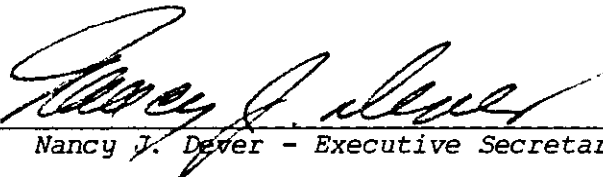
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of June, 1984