

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24892
Docket Number MW-24911

Hyman Cohen, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Seaboard Coast Line Railroad Company

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

(1) The thirty (30) calendar days of suspension imposed upon Trackman J. Davis for alleged violation of Agreement Rule 17 (b) was arbitrary, capricious, without just and sufficient cause and on the basis of unproven charges [System File C-4(13)-JD/12-39(81-40) G].

(2) The claimant's record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: The Claimant is employed as a Trackman at the Carrier's Headquarters, in Fitzgerald, Georgia. He has twenty (20) years of service with the Carrier. After a hearing which was held on April 23, 1981, the Claimant was suspended for thirty (30) calendar days because he failed to protect his assignment between March 16 through March 20, 1981 in violation of Rule 17 (b) of the Agreement.

Rule 17 (b) provides as follows:

"An employee desiring to be absent from service must obtain permission from his foreman or the proper officer. In case an employee is unavoidably kept from work, he must be able to furnish proof of his inability to notify his foreman or proper officer."

The Board believes that it is unreasonable to conclude that the mechanical failure of the Claimant's truck unavoidably kept him from work on four (4) successive days (March 16 through 19, 1981). However, assuming that to be the case, the Claimant did not furnish "proof of his inability to notify his foreman or proper officer" within the intent and meaning of Rule 17 (b). The Claimant said he did not notify his foreman before Wednesday, March 18 that he would be absent from work because he did not have his telephone number.

It strains credulity to believe that the Claimant could not have obtained the telephone number of his foreman on Monday and Tuesday, March 16 and 17, 1981 since he was successful in doing so on March 18, 1981. That the Claimant believed his truck would be repaired on Tuesday, March 17, 1981 is irrelevant to "his inability to notify his foreman" that he would be absent from work. Although he called his foreman on Wednesday, March 18, 1981, he did not disclose that he would be absent from work on the two (2) following work days. Even though he had his foreman's telephone number he did not call him on Thursday, March 19, 1981 when his truck was repaired, and on Friday, March 20, 1981, when he saw his doctor due to arthritic condition.

Based upon the record, and assuming the Claimant was "unavoidably kept from work", the Claimant failed to "furnish proof of his inability to notify his foreman***" within the intent and meaning of Rule 17 (b). Furthermore, the telephone discussion on March 18, 1981 in which Section Foreman Sumner rejected the Claimant's request to be placed on vacation for the week brings into operation the terms of the first sentence of Rule 17 (b). Accordingly, the Claimant desired "to be absent from service" but failed to "obtain permission from his foreman or the proper officer", as required by Rule 17 (b).

The Claimant has been cautioned on three (3) previous occasions for unauthorized absenteeism. Furthermore, it is basic that the Carrier has a right to expect employees to show up for work, and at a minimum, to secure authorization for their absence, Third Division Award No. 24258.

In light of the record before us, the Board cannot conclude that the suspension of the Claimant for thirty (30) calendar days is excessive.

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

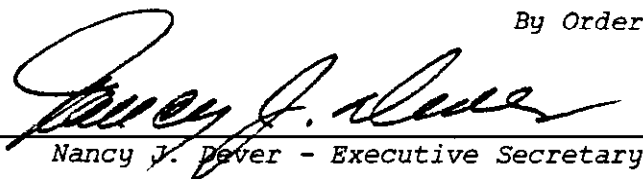
That the Agreement was not violated.

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 18th day of July 1984.