

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24944
Docket Number MW-25118

Thomas F. Carey, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Norfolk and Western Railway Company (Illinois Terminal)

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

(1) The thirty (30) days of suspension imposed upon Section Foreman M. J. Stewart for 'reporting late for work' on January 27 and 29, 1982 and for allegedly 'making false statements to Assistant Division Engineer Beirne about the reason for being late on January 29th, 1982' was without just and sufficient cause and unwarranted (System File N&W 1982-6/MW-STL-82-2).

(2) The claimant shall be compensated for all wage loss suffered including overtime pay.

OPINION OF BOARD: Claimant was employed as a Section Foreman at the Carrier's facility in the St. Louis, Mo., Terminal Division. He had been employed in the Carrier's service for approximately nine (9) years.

The Carrier charges that on January 27 and 29, 1982, the Claimant reported late for work. In addition, the Carrier contends that the Claimant fabricated his reason for lateness on January 29, 1982.

These incidents resulted in a formal investigation held on February 17, 1982, in which the following charge was addressed:

"... your alleged reporting late for work on January 27th, 1982, and alleged reporting late for work on January 29th, 1982, and alleged making false statements to Assistant Division Engineer Beirne about the reason for being late on January 29th, 1982. Your past attendance record will be reviewed."

The Carrier contends that the Claimant's lateness on the two dates is uncontroverted. It suggests that the Claimant's lateness created serious hardship in the form of delay to manpower and loss of efficiency. In addition, the Carrier argues that the Claimant's lateness was compounded on January 29, 1982 by his fabrication that a train blocked Route 159 in Edwardsville at 6:55 a.m. In light of this incident and the Claimant's past record of discipline, the Carrier concludes that the thirty (30) day suspension assessed Claimant was fair and reasonable.

The Organization insists that the Claimant acted properly. It points out that he notified his direct supervisor that he would be late on the days in question, in accordance with Rule 12(f), which reads:

"(f) An employee detained from work on account of sickness, or for any other good cause, shall notify his direct supervisor as early as possible."

The Organization contends that the Claimant was taking medication for back spasms. This medication caused the Claimant to oversleep.

TR (Question 316)

"Q. At times, does that medicine make you groggy or sleepy?

A. The combination of both will knock you out."

The Organization insists that the Claimant called the Carrier after he awoke. Therefore, the Organization concludes that he should not be assessed thirty (30) days' actual suspension.

The entire record has been reviewed. It establishes that Claimant was late for work on both January 27 and 29, 1982. As a Section Foreman, the Claimant had a special duty to arrive on time. This lateness impaired the Carrier's ability to function efficiently.

In addition, the record also establishes that the Claimant gave a false reason for his lateness on January 29, 1982. The record indicates that no train was blocking Route 159 at Edwardsville at 6:55 a.m. Thus, the record contains sufficient evidence to support the Carrier's finding of Claimant's guilt.

The Claimant's discipline record has been examined to determine the appropriateness of the penalty. It reveals that the Claimant had previously been suspended for five (5) days as a result of unauthorized absence.

Unauthorized absence is a serious offense. As was noted in Second Division Award No. 6240:

"This Board has repeatedly pointed up the detrimental effect of absenteeism upon the operations of the railroads."

In view of Claimant's guilt and prior record, the Board finds that a thirty (30) day suspension is reasonable.

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.

Award Number 24944
Docket Number MW-25118

Page 3

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Fever - Executive Secretary

Dated at Chicago, Illinois, this 14th day of August 1984.