

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24947  
Docket Number MW-25130

Thomas F. Carey, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(  
(Consolidated Rail Corporation  
(New York, New Haven & Hartford Railroad 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 Trackman G. Deyab on charges that

(a) he alleged left the work site without proper authority and failed to comply with instructions from Supervisor E. P. Arrendondo at Providence, Rhode Island on March 2, 1981 (System Docket No. NH-82);

(b) he was allegedly absent from duty without authority on March 3, 4, 5 and 6, 1981 (System Docket No. NH-83).

(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: On March 2, 1981, Mr. R. G. Deyab, a trackman with five and one-half (5-1/2) years service, was instructed to install timbers at the Gas House Switch, South Providence Yard. Mr. Deyab confronted the Supervisor-Track and said it was too much work for three men. The Claimant was advised to do the job as assigned. Upon his refusal, the Claimant left the work site on his own accord and, in addition, remained absent from duty for four (4) additional days (March 3-6, 1981).

The discipline assessed to the Claimant was ten (10) working days, March 2, 1981 through March 13, 1981, as suspension with regard to the charge of insubordination, and an additional three (3) working days, March 16-18, 1981, as suspension due to absenteeism.

The record states clearly Claimant left the work site without proper authority and failed to comply with a direct instruction from his Supervisor at Providence, R. I. on March 2, 1981. Such refusal constitutes an act of insubordination. It is well settled that employees must comply with instructions and then complain later.

In addition, the record indicates that the Claimant did not, in fact, report for work on March 3, 4, 5, and 6, 1981. It is the duty and obligation of the employee to make himself available to perform service at the assigned time and, therefore, he must be held responsible for his absence during the period involved.

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

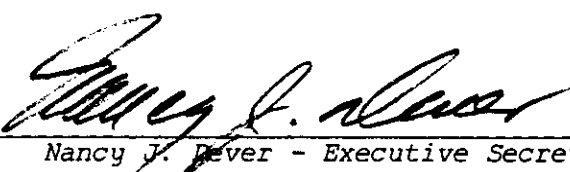
That the Agreement was not violated.

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 14th day of August 1984.

