

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25063
Docket Number SG-24842

I. M. **Lieberman**, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Burlington Northern Railroad Company (formerly St. **Louis-**
(San Francisco Railway Company)

STATEMENT OF CLAIM: **"Claim** of the General Committee of the Brotherhood of Railroad Signalmen on the former St. Louis-San Francisco Railway company:

On behalf of Mr. F. Clark, Jr., for eight hours' pay at the pro rata rate account not allowed to work on June 16, 1981, in violation of Rule 51."
(Carrier file: **SI 81-10-26**)

OPINION OF BOARD: Claimant herein was fifteen minutes late to work on June 16, 1981 and was sent home and not permitted to work that day. Petitioner argues that this action constituted discipline and was improper under Rule 51 which provides that no employee will be disciplined without first being given an investigation.

Carrier notes that **on** June 11, 1981 Claimant and the other members of his gang were reminded by their Supervisor that they had previously been notified that any member of the gang reporting late for work would be sent home for the day without pay. **On** June 12, 1981 Claimant was late for work and his supervisor asked him if he had heard the warning on the previous day. Claimant admitted that he had heard the warning and was told that if he were late again he would not be allowed to work that day. On June 16th Claimant reported at **8:15** A.M. knowing that the starting time was 8:00 A.M. and was sent home.

The issue involved in this dispute has been before this Board, and other Boards, **on numerous** occasions. In Award 7210, relied on by the Organization, this Board held that sending an employe home in closely related circumstances constituted a disciplinary measure and was improper in the absence of an investigation. However in a series of more recent decisions, this Board has taken the position that when there had been prior warnings a Carrier's refusal to permit tardy employes to work was not tantamount to discipline (see Awards 22904, 23294 and 22287 among others). Most significantly, in Award 24428 involving these same parties, and involving an incident just six months prior to that herein, this Board held:

'It is beyond question that an employe must report at his scheduled starting time absent approved advance notice or circumstances which are beyond his control.... It is also axiomatic that a Carrier has the right to control tardiness. In this case all employes had received repeated warnings about tardiness and it is undisputed that a practice had been enforced of not permitting tardy employes to work a partial day.'

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It is **our conclusion** that this issue has indeed **been resolved** and the principle of stare decisis is applicable as the Board stated its conclusion in the award cited above. An **employee** who is late without approval or good reason is in a tenuous position to demand the right to complete his assignment (see Second **Division** Award 73841. The claim must be denied.

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. Dover - Executive Secretary

Dated at Chicago, Illinois, this 4th day of October 1984.