

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25071  
Docket Number m-25103

George S. Roukis, Referee

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

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

Ill The thirty (30) days of suspension imposed upon Section Laborer C. E. **Grandberry** for alleged "failure to report to work on time on December 14, 1981" was without just and sufficient cause and on the basis of unproven charges (System File N&W 1982-2/MW-STL-81-15).

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

OPINION OF BOARD: Claimant was notified by letter dated December 14, 1981 to appear for an investigation on December 21, 1981 concerning his purported failure to report to work on time on December 14, 1981. The investigation was held as scheduled and based upon the hearing record, Carrier concluded that he was guilty of the asserted specification and suspended him from service for thirty (30) days. This disposition was appealed.

In defense of his petition Claimant contends that his lateness was unavoidable since his automobile experienced unforeseen mechanical trouble that precluded him from reporting to work in timely fashion. He testified at the December 21, 1981 investigation that his automobile suddenly ceased operating when he was **enroute** to work and this unexpected development caused his lateness. He asserts that he complied with the explicit requirements of Agreement Rule 12(f) since he notified the Division Engineer at about 8:10 A.M. that morning of his predicament, and further maintains that he promptly reported to the site where his work gang was located. He avers that Carrier had never informed him that he could not be off and argues that his actions were reasonable under the circumstances.

Carrier argues that his lateness on September 14, 1981 reflected a blatant continuation of an attendance pattern that included within the previous six (6) months a total of 166.5 hours of missed work time. It notes that he was frequently admonished to improve his behavior and cited the times he was previously disciplined for the same type of infraction. It avers that his lateness on December 14, 1981 was patently inexcusable and manifestly at odds with its attendance rules.

In **our** review of this case we agree with Carrier's position. Claimant had been sternly warned **on numerous occasions** to improve his attendance and was clearly mindful of his employment obligation. His lateness pattern was abusive. Within the six month period preceding the date of the instant lateness, Claimant had missed 166.5 hours of work. In addition, he had been disciplined for similar infractions. **He** was assessed a thirty **(30)** day deferred suspension in lieu of the formal investigation on September 29, 1976 for failure to protect his work assignment and a ten **(10)** day suspension was assessed on July 25, 1980 for being absent from work without proper authority. While he is correct that he complied with **the** notification requirements of Rule **12(f)**, his compliance was pro forma and not mitigative of his actions. When this Board has to balance his December 14, 1981 lateness against his past **attendance** and disciplinary record, we have to conclude that his lateness was unacceptable. As a matter of normative policy, Carrier's attendance regulations are indeed reasonable and **employees** are expected to report to work on time. Claimant had been consistently warned orally and in writing to correct his attendance deportment, but unfortunately without success. The discipline should come as no surprise. We find no basis for disturbing the instant penalty, particularly in view of his employment history, and thus, we must deny the claim. We are compelled to add, however, that dismissal will inevitably follow if he does not maintain an acceptable attendance record.

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.