

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 25389

Docket Number MW-24695

W. S. Coleman, Referee

(Brotherhood of Maintenance of Way **Employees**

PARTIES TO DISPUTE: (

(Seaboard Coast Line Railroad Company

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

"1. The Carrier violated the Agreement when, without just and sufficient cause, it entered a letter of caution into the service record of **Trackman J. M. Bichard** for alleged violation of Rule **17(b)** (System File **C-4(13)-JMB/12-39(81-16) G**).

2. Said letter of caution shall be removed from the Claimant's **personel** record.'

OPINION OF BOARD: Claimant, **J. M. Bichard**, a **Trackman** headquartered at **Uceta** Yard, Tampa, Florida, was assigned to Section 6757. On November 25, 1980, Claimant called the **Roadmaster's** office to say that he would not come to work that day because of brake problems. It was suggested to him that he might be issued a letter of caution because he had not properly requested permission to be off and had prior knowledge of the problem. Upon return to work on November 26, he was given a letter of caution, which he refused to accept.

Upon protest of the letter, a hearing was held on **December** 16, 1980. At the conclusion, Carrier's decision was upheld. Following an appeal, the dispute was advanced to this Board for final determination.

Carrier argues that the letter of caution was justified and that its actions were not disciplinary, but rather corrective and educational. Further, Claimant was afforded all procedural protections guaranteed by Agreement. The Organization contends that Claimant was unavoidably absent, that he properly notified Carrier of his absence, and that he was not notified to appear for work on the day in question. Thus, the letter of caution should not stand.

Upon a review of the entire record, this Board concludes that the letter of caution issued to Claimant should be removed from his file. Carrier maintains that the letter was intended to be instructional and not disciplinary. Thus, there is no reason for it to be retained. Claimant is not to infer from this decision, however, that he is not required to request permission to be absent in the proper way or that he should not make every effort to be a punctual and steady **employee**.

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD **ADJUSTMENT** BOARD
By Order of Third Division

Attest:


Nancy J. ~~Deyer~~ - Executive Secretary

Dated at Chicago, Illinois this 15th day of dpril 1985.