

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25521  
Docket Number MU-25659

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

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

(1) The dismissal of Laborer **E. G. Rodriguez** for alleged tardiness and absenteeism was without just and sufficient **cause** and on the basis of unproven charges (System File C #14-82/D-2528).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, his record cleared and he shall be compensated for all **wage** loss suffered.

OPINION OF BOARD: Claimant, an extra gang laborer, was dismissed from Carrier's service on August 16, 1982, for alleged tardiness and absenteeism. A hearing was requested in Claimant's behalf, which hearing was scheduled for and conducted on September 2, 1982. A copy of the Transcript of the hearing has been made a part of the record. Due to a language barrier, an interpreter was present at the hearing.

There was substantial evidence presented in the hearing that Claimant frequently reported late for work and frequently left work early for what he contended were dental appointments; however he said nothing to the Foreman about such appointments until an hour or two before he left. Claimant was guilty of excessive absenteeism and tardiness.

In the handling of the appeal on the property, the Carrier pointed out that Claimant had previously worked for the Carrier under another name, but that his application for employment under the other name had been disapproved. We think this was **a** proper matter for consideration on appeal, as Awards too numerous to require citation, have held that an **employee's** prior record may always be considered in discipline cases, where such prior record is brought up in the on-property handling.

There is no proper basis for disturbing the action of the Carrier.

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;

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That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

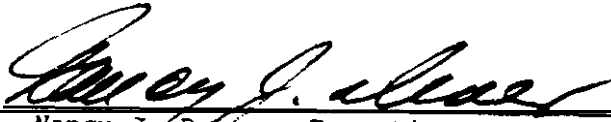
That the Agreement **was** not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dyer - Executive Secretary

Dated at Chicago, Illinois, this 28th day of June 1985.

