

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25666  
Docket Number MW-25628

Nicholas Duda, Jr., Referee

(Brotherhood of **Maintenance** of Way Employes  
PARTIES TO DISPUTE: {  
(Consolidated Rail Corporation

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

(1) The dismissal of Machine Operator E. E. Gallagher for alleged unauthorized absence on August 10, 11, 12, 13, 19, 20 and 27, 1981 was without just and reasonable cause and in violation of the Agreement (System Docket 749).

(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 **Elwood E.** Gallagher, an EEW Machine Operator with seven years service was notified to attend a trial in connection with the charge of unauthorized absences on August 10, 11, 12, 13, 19, 20 and 27, 1981. The trial commenced on September 21, 1981 and was continued on September 22, 1981. Following the trial Claimant was dismissed, OR October 2, 1981.

A review of the record before this Board establishes that Claimant ~~was~~ absent without authorization on the specific days charged and that there was substantial evidence to sustain the Carrier's decision to discipline Claimant. Given Claimant's prior record of four time-off disciplines, including two ten-day suspensions for unauthorized absence, the penalty of dismissal was not unreasonable.

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 Employes involved in this dispute are respectively Carrier and Employes 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.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Decker - Executive Secretary

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