

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26178

Docket Number MW-26370

Edwin H. Benn, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Burlington Northern Railroad Company
(former St. Louis - San Francisco Railway Co.)

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

1. The dismissal of Trackman T. Keltner for alleged absence from duty without proper authority on September 21, 1983 was without just and sufficient cause (System File R-2165/MWC 84-3-20B).

2. The claimant shall be reinstated with seniority and all other rights unimpaired, his record shall be cleared of the charge leveled against him and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant, a Trackman, was discharged by the Carrier due to his failure to report for duty on September 21, 1983.

The record shows that Claimant was assigned to Tie Gang T-1-10 under the supervision of Assistant Roadmaster R. Honeycutt at Monett, Missouri. On September 21, 1983, between 6:40 A.M. and 6:45 A.M., Claimant called the motel at which Honeycutt was staying and spoke to a motel employee. Claimant was asked by the motel employee if he desired to be connected to Honeycutt's room. Claimant stated that he did not care to be connected since Honeycutt had probably already left the motel. Claimant told the motel employee to leave a message for Honeycutt that Claimant was sick.

Claimant's scheduled starting time on September 21, 1983, was 7:00 A.M. Claimant did not report to work on that date and did not receive prior authorization to be absent from work.

Claimant's work record shows a history of numerous unauthorized absences which have resulted in prior discipline including counseling slips and suspensions. Indeed, Claimant was discharged less than one year earlier because of unauthorized absences but was reinstated with the understanding that continued unauthorized absences would result in more severe discipline.

Rule 502 of the Rules of the Maintenance of Way Department states that:

"Employees must report for duty at the designated time and place. They must be alert, attentive and devote themselves exclusively to the Company's service while on duty. They must not absent themselves from duty, exchange duties with or substitute others in their place, without proper authority."

We find substantial evidence in the record to support the Carrier's decision to terminate Claimant's employment. Clearly, Claimant's absence on September 21, 1983, was unauthorized and was in violation of Rule 502. Under the circumstances of this case, Claimant's last minute attempt to simply leave a message at his Supervisor's motel cannot excuse the clear violation of the Rule. Claimant has demonstrated a propensity for unauthorized absences and the progressive discipline administered by the Carrier has had no apparent rehabilitative effect. We therefore find that the Carrier's imposition of termination, as opposed to a less harsh form of discipline, was neither arbitrary, capricious or an abuse of discretion.

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

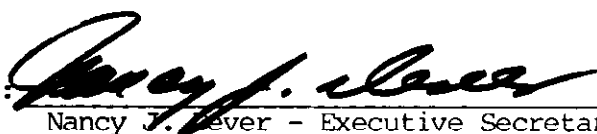
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Leever - Executive Secretary

Dated at Chicago, Illinois, this 24th day of November 1986.

