

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26680  
Docket Number MW-26390

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Consolidated Rail Corporation

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

(1) The ten (10) working days' suspension imposed upon Repairman T. L. Callow III, for alleged 'excessive absenteeism' is without just and sufficient cause and on the basis of unproven charges (System Docket CR-667-D).

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

OPINION OF BOARD: Claimant, with five years of service with Carrier, left work early on October 21, 1983, and on October 25, 1983; on both days he complained of being ill and had permission from his Supervisor to leave. Further, on November 4, 1983, Claimant properly notified Carrier that he was unable to work that day. Subsequently, by letter dated November 9, 1983, Claimant was charged with excessive absenteeism by virtue of the two early quits and the absence on November 4th, coupled with his prior attendance record. Following an investigation, he was found guilty and assessed a ten day suspension.

Petitioner insists that Claimant complied with all the terms of Rule 28(a), which provides:

"(a) Any employes unable to report for work for any reason must notify his supervisor as soon as possible."

Further, it is contended that illness is a proper cause for absence from duty. The Organization argues that the discipline in this case was both unwarranted and excessive.

Carrier notes that Claimant had been counseled and warned with respect to his attendance, including absenteeism, tardy starts and early quits, on March 21, 1983, to no avail. Carrier argues that the three incidents herein were all within a month and in light of the entire record were intolerable. Furthermore, Carrier states that its discipline in this case was in fact lenient.

The Board notes that prior to the three incidents specified in this dispute, Claimant had been absent 15 times in 1983, left work early on two occasions and was late on five different days. Discipline for excessive absenteeism has become more common in the work place over the last several years due to persistent employee infractions in this area. It must be made clear that the employment relationship requires regular attendance as a fundamental aspect of the employee's part of the bargain. Although each case must be evaluated on its facts, poor attendance, even though for good cause and with supervisory approval, need not be tolerated. Thus, in this case, the three current incidents in themselves would not be a reasonable basis for any discipline; however, in the light of the past warning and the clearly excessive pattern for the first nine months of the year, discipline was appropriate and the ten day suspension cannot be considered to have been excessive. The Claim must be denied.

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. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of November 1987.