

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
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(North Louisiana and Gulf Railroad Company

STATEMENT OF CLAIM:

"(1) The thirty (30) days of suspension imposed upon Laborer D. L. Ponder for allegedly 'walking off the job without permission nor notifying anyone of your intention to do so' was on the basis of unproven charges, arbitrary and without just and sufficient cause.

(2) The dismissal of D. L. Ponder for allegedly 'leaving your job without proper permission' was on the basis of unproven charges, arbitrary and without just and sufficient cause.

(3) The claimant's record shall be cleared of the charges leveled against him, he shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered because of the violations in either Part (1) and/or Part (2) hereof."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This case is the result of a consolidated appeal of a thirty-day suspension issued to Claimant following a Hearing on August 6, 1985, for allegedly leaving his job without permission or notifying a Carrier Officer of his departure on July 15, 1985, and a dismissal following a Hearing on November 19, 1985, for also allegedly leaving his assignment without permission on October 24, 1985.

This Division has reviewed the entire record of this case, including the transcripts of both investigations, and finds sufficient basis to sustain the charges. We have no reason to dispute Claimant's allegation that his wife was in need of medical attention on July 15, 1985, or that he mentioned that

he would have to speak with his wife on the phone about her condition late that morning. There is no evidence, however, that he actually sought or received permission to leave his job. In the final analysis, employees cannot simply walk off the job without permission, except in the most extreme cases of emergency. Claimant did not prove that conditions were such that he was barred from speaking with the Roadmaster before leaving.

On October 24, 1985, the record indicates that Claimant, by his own admission, did not request permission from the Superintendent to be off. Claimant had been notified that because of his poor attendance record, prior permission was required.

Despite Claimant's poor history of attendance in the past, it appears that in addition to numerous counsellings, he received only a two-day disciplinary layoff in 1984. Under the circumstances, while we conclude that Claimant's thirty-day suspension should stand, we find that final termination is excessive for the latter offense. Claimant should have one last chance to become a responsible employee, and therefore shall be returned to service with seniority intact but with no backpay.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 20th day of July 1988.