

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

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) days of suspension imposed upon Repairman L. L. Mackey for alleged 'Failure to report for duty at Canton M/W Shop, Canton, Ohio, on October 11, 12, 1983, and October 21, 1983, which in light of your previous attendance record (Absent 4/27/83, 5-6, 10, 11, 12, 13, 17, 25, 1983, 6-10, 13, 30, 1983, 7/14/83, 8-3, 19, 30, 31, 1983, 9-1, 2, 6, 7, 14, 26, 29, 1983, early quit 3/30/83, 7/25/83, 7/29/83, 9/12/83, 10/10/83) constitutes excessive absenteeisms' was arbitrary, capricious and on the basis of unproven charges (System Docket CR-666-D).

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

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

The Claimant was assessed a ten (10) day suspension after a finding by the Carrier that he had been excessively absent from the work place.

The evidence shows that the Carrier has met its burden of proof in matters such as this. Under the circumstances, and because the Claimant had been previously disciplined for excessive absenteeism, the ten (10) day suspension cannot be considered to be excessive.

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Award No. 27296
Docket No. MW-26398
88-3-85-3-129

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dexter - Executive Secretary

Dated at Chicago, Illinois, this 12th day of August 1988.