

The Third Division consisted of the regular members and in addition Referee Edward L. Suntrup 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 five (5) days of suspension imposed upon Repairman H. Hester for 'failure to report for duty on January 17 and 20, 1984; and February 2, 1984' was arbitrary, capricious and without just and sufficient cause (System Docket CR-873-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."

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.

The Claimant was advised on February 9, 1984, to attend an investigation to determine his responsibility, if any, in connection with his alleged failure to report for duty on January 17 and 20, 1984, and on February 2, 1984, at the Carrier's Canton Maintenance of Way Shop, Canton, Ohio. He was charged with excessive absenteeism. The investigation was held on February 13, 1984, and the Claimant was found guilty as charged and assessed a five day suspension.

The record shows that as of February 28, 1983, there was a shop policy in effect at Canton on absences, late starts and early quits. This policy stated that any combination of these totalling three in thirty days could result in a written warning with discussion. Further combinations after this resulting in three days in thirty could result in disciplinary investigation.

There is nothing in the record to show that the Claimant was not fully aware of this policy. He had been absent three days and started late on two days in the month of November, 1983, and he had received a written warning with discussion because of this. According to the record the Claimant did call in sick on the two days in January and the one day in February of 1984, although he was not prepared to substantiate these absences with medical evidence because it was his testimony at the investigation that he "...didn't think it was necessary" to go to the doctor.

There can be no doubt that the Claimant was in violation of company policy and that in accordance with this policy he engaged in excessive absenteeism. Numerous prior Awards of this Board have ruled that absenteeism can reasonably subject an employee to discipline and that it is a serious violation of company rules and/or policy (Second Division Awards 6285, 6465, 8103; Third Division Awards 20032, 20768, 26266). On merits the claim cannot be sustained.

The Organization representative raises a procedural point and objects to the introduction into the record of information about the Claimant's prior pattern of absences and his prior disciplinary record. The former is properly before the Board because it was part of the substance of the original charge levied against the Claimant by the Carrier. The Claimant was found guilty of excessive absenteeism not only because he missed three days in early 1984, but because this was the continuation of a pattern of absenteeism prior to that time. The introduction of a Claimant's prior disciplinary record into the record before a Board such as this is also proper, not as an evidentiary factor for determination of merits of a case, but as evidence to be used in order to establish quantum of discipline (Second Division Awards 5790, 6632; Third Division Awards 21043, 22320, 26265). The objection raised must, therefore, be dismissed.

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 29th day of September 1988.