

The Third Division consisted of the regular members and in addition Referee Mary H. Kearney when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Missouri Pacific Railroad Company

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

(1) The dismissal of Machine Operator H. McGary for absenteeism from work without proper authority on January 6, 8, 9, 10 and 13 through 17, 1986, was arbitrary, extremely harsh and in violation of the Agreement (Carrier's File 247-7201).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, his record 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.

At the time the instant Claim arose, Claimant was employed as a Machine Operator on District Tie Gang 5850. In January, 1986, over a period of nine (9) working days he failed to report to protect his assignment. In the months immediately preceding this, Claimant had several additional instances where he had been absent from work apparently without proper authority.

The Carrier scheduled an Investigation of the facts surrounding Claimant's absenteeism, but Claimant failed to appear. The Organization contends that the Claimant was not notified of the Investigation. The Carrier contends it sent Claimant a notice of the Investigation by certified mail and it presented evidence thereof. We have reviewed the record and find the Organization's contention without merit.

Further, the Board will not consider the Organization's contention that the Claimant's position was prejudiced when the Superintendent assumed multiple roles during the disciplinary proceedings since this matter was not raised on the property. It is well settled that objections not so raised may not properly be raised for the first time before this Board.

The merits of this Claim were uncontested. In light of the above determinations, the decision by the Carrier will stand.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of February 1989.