

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Missouri-Kansas-Texas Railroad Company

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

(1) The dismissal of Track Laborer B. J. Derr for alleged violation of General Rule 604 was arbitrary, capricious, without just and sufficient cause and an abuse of the Carrier's discretion (System File 100-146/2579).

(2) The Claimant shall be reinstated to service with seniority and all other rights and benefits intact, her record shall be cleared of the charge leveled against her, and she shall be compensated for all wage loss suffered beginning April 3, 1987."

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.

Claimant was employed as a track laborer by Carrier. On March 19, 1987, Claimant was directed to attend a formal Investigation of the charge:

"to develop the facts and determine your responsibility, if any, for unexcused absences commencing March 4, 1987 and continuing."

The Hearing took place on March 27, 1987, and as a result, Claimant was dismissed from service. The Organization thereafter filed a Claim on Claimant's behalf, challenging her dismissal.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of being absent without permission on the date in question. Therefore, the Carrier had a right to impose discipline.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed by the Carrier. This Board will not set aside a Carrier's imposition of discipline unless we find the action taken to have been unreasonable, arbitrary, or capricious.

In the case at hand, the Claimant was dismissed for a very serious violation. The Claimant had a responsibility to cover her position, and her subsequent absences were not justified. This Board has held on numerous occasions that failing to cover one's assignment is a dismissible offense. This Board cannot find that the action taken by the Carrier was unreasonable, arbitrary, or capricious. Therefore, the Claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1989.