

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 31613  
Docket No. MS-31145  
96-3-93-3-1

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

(Abdul R. El Sharif

**PARTIES TO DISPUTE:** (

(Florida East Coast Railway Company

**STATEMENT OF CLAIM:**

"Since I got injury on the company job, it was not my fault. Why should I have taken a leave of absence for which I was fired for?"

**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 employee 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 were given due notice of hearing thereon.

Following proper notice and Investigation, Claimant was dismissed for having absented himself in excess of ten days without authority. The record is clear that Claimant was absent in excess of ten days and, despite being advised by Carrier of the need to do so, refused to request, in writing, a leave of absence.

Throughout the proceedings, Claimant maintained that he should not be required to file for a leave of absence because his disability resulted from an on-the-job injury, and because he believed he should have been given light duty. Claimant's position is erroneous.

Based on our review of the record, however, in view of the peculiar facts and circumstances of this case and in view of Claimant's confused state of mind regarding the leave of absence question, and without setting a precedent for future cases, the Board finds that Claimant should be given one last chance to return to the workforce. Therefore, we will order that Claimant be reinstated to service, but without any backpay or other compensation, and conditioned on Claimant's passing any reasonable physical examination that Carrier may require.

**AWARD**

Claim sustained in accordance with the Findings.

**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division**

**Dated at Chicago, Illinois, this 29th day of August 1996.**