

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32428
Docket No. MW-32672
98-3-95-3-609**

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

PARTIES TO DISPUTE: (
(Brotherhood of Maintenance of Way Employes
(CSX Transportation, Inc. (former Louisville and
(Nashville Railroad Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The letter of reprimand assessed Foreman J. D. Long for his alleged unauthorized absence on June 21 and 27, 1994 was without just and sufficient cause and based on an unproven charge [System File 16(11)(94)/12(94-1045) LNR].**
- (2) The Agreement was violated when the Carrier withheld Foreman J. D. Long from service prior to the October 17, 1994 hearing.**
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Foreman J. D. Long shall now have his record cleared of the letter of reprimand and shall be compensated for all wage loss suffered due to being withheld from service prior to the hearing."**

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.

By letter dated July 8, 1994, the Carrier charged the Claimant with "being absent without permission as required by Rule 12 of the Agreement from April 26 to, and including, June 6 (excluding rest days), June 21 and from June 27 to and including July 5 (excluding rest days)." Subsequent to the Investigation the Carrier advised the Claimant in a letter dated November 16, 1994 of its findings which included that he was absent without permission on June 21 and June 27, 1994. As a result, the Carrier issued a letter of reprimand to the Claimant.

A careful examination of the record establishes that the Claimant admitted that he failed to report for work at his assigned time on June 21 and 27, 1994; nor did he notify his Roadmaster of his absences on those days. Clearly, the Claimant's absences on June 21 and 27, 1994 were unauthorized.

Contrary to the argument raised by the Organization, the Claimant received a fair and impartial Hearing. No showing has been made with respect to how the Claimant's rights were impaired or prejudiced by the manner in which the Hearing was conducted. Clearly, the procedural claims which have been asserted by the Organization are not supported by the record.

The Board concludes that the Claimant's absences were unauthorized. It is the Board's judgment that the Carrier's lenient discipline of a written reprimand be upheld.

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

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

Dated at Chicago, Illinois, this 21st day of January 1998.