

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20177  
Docket Number MW-20384

Joseph Lazar, Referee

PARTIES TO DISPUTE: ( (Brotherhood of Maintenance of Way Employes  
(Louisville and Nashville Railroad Company

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

(1) The dismissal of Carpenter Helper J. Jackson, Jr. for failing to report for duty and being off without permission from proper authority on July 17, July 18 and July 19, 1972 was extremely severe and wholly disproportionate to the offense with which he was charged (System File 1-16/D-104288).

2. Carpenter Helper J. Jackson, Jr. be reinstated with seniority, vacation and all other rights unimpaired and that he be compensated for all wage loss suffered, all in accordance with Rule 27(f).

OPINION OF BOARD: Our review of the record shows that Grievant, by his own admission, and despite repeated warnings, was absent from his assignment without permission on July 17, 18, and 19, 1972, as charged. Absenteeism is a serious matter. As stated in Award No. 14601 by Referee George S. Ives,

"Unauthorized absences from duty, if proven, are serious offenses, and often result in dismissal from service."

Mitigating circumstances, however, are present. Grievant had lost some 50 pounds in an illness at the time; had called his Foreman's home at 4:00 a.m., July 18, talked to his Foreman's wife and mistakenly believed this gave him permission to be off; had not been previously actually disciplined for being absent without permission, and, apparently, did not clearly understand the procedures necessary for obtaining permission to be off. In view of the mitigating circumstances under the circumstances of this particular case, Grievant should be reinstated and restored to service with seniority and other rights unimpaired, but shall not be compensated for any loss of time.

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FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the discipline imposed was excessive.

A W A R D

Carpenter Helper J. Jackson, Jr. shall be reinstated and restored to service with seniority and other rights unimpaired, but shall not be compensated for any loss of time while out of service.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 15th day of March 1974.