

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21999
Docket Number CL-21952

Dana E. Eischen, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
PARTIES TO DISPUTE: (
(The New Orleans Terminal Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
GL-8301, that:

(a) Carrier violated the Agreement at New Orleans, Louisiana, when it suspended Mr. L. J. McHenry, Assistant Switching Clerk from the service beginning May 21, 1975 and ending midnight June 20, 1975, for allegedly leaving his position without permission of the Carrier officer.

(b) Carrier shall be required to compensate Mr. Lewis J. McHenry for twenty three (23) days' pay at his regular rate for the period May 21, through June 20, 1975.

OPINION OF BOARD: This case involves the thirty-day suspension of Mr. L. J. McHenry following a hearing into charges of "failure to protect your assignment of assistant switching clerk Tuesday, May 20, 1975, by reason that you left the company property about 10:00 a.m. without permission or being relieved."

Evidence adduced at the hearing shows that Claimant reported to work at 8:00 a.m. on May 19, 1975 after a prolonged leave of absence. After working for approximately 45 minutes he asked permission to leave work to take care of a personal errand. Permission was granted and he left at approximately 8:45 but did not return that day. The next day at about 10:00 a.m. he again requested permission to leave for the balance of the day. His supervisor denied this request and explained that he was needed in the office. Shortly thereafter Claimant left work without permission and did not return for the rest of the day. The foregoing facts are established by competent evidence on the record including Claimant's admissions.

The record is replete with extraneous issues, the foremost being that Claimant actually was on a disability leave from May 9 to June 9 when disciplined. The record indicated the Supervisor was not aware of this at the time he preferred charges nor did the Claimant

make any effort to bring this to light in the conversation with the Supervisor on May 20th. It cannot be ignored, moreover, that Claimant reported for work on the 19th and 20th of his own volition. With that, Carrier had the right to expect him to perform his duties, fulfill his obligations and protect his assignment. The factual record demonstrates beyond doubt that he failed to do so.

The record reveals he was afforded a fair and impartial hearing and the discipline was not arbitrary or capricious and was consistent with his past record.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 14th day of April 1978.