

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22197  
Docket Number MW-22219

Don Hamilton, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Seaboard Coast Line Railroad Company

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

(1) The dismissal of Trackman James I. Pasco, Jr. (ID 164212) was without just and sufficient cause and extremely disproportionate to the offense with which he was charged /System File C-4(13)-JIP/12-39 (76-26 J3/.

(2) Claimant Pasco shall be reinstated to service, his personal record shall be cleared of the charge and he shall be compensated for all earnings lost as a result of said dismissal."

OPINION OF BOARD: The Claimant was employed as a Trackman July 28, 1972. On March 8, 1976, the Company gave him a letter which stated:

"Due to your being absent again March 2, 1976 through March 5, 1976, in violation of Rule 17-B of the agreement between the Seaboard Coast Line Railroad and Brotherhood Maintenance of Way Employees, which reads as follows:

'An employee desiring to be absent from service must obtain permission from his foreman or the proper officer. In a case an employee is unavoidably kept from work, he must be able to furnish proof of his inability to notify his foreman or proper officer.'

You have been warned of this numerous times, the last being December 9, 1975, which you acknowledged of that being your final notice of this violation. Your hearing will be set by the Division Engineer and he will notify you of the date and place of the hearing."

The record clearly supports the argument that the Claimant failed to comply with Rule 17-B. Further evidence indicates that he has been warned repeatedly about his absenteeism.

The action of the Carrier was neither arbitrary, capricious nor unwarranted and leniency is not justified in this case as the discipline imposed is not disproportionate to the offense.

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A.W. Poulos  
Executive Secretary

Dated at Chicago, Illinois, this 13th day of October 1978.

