

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22298  
Docket Number MW-22341

Louis Yagoda, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(  
(The Chesapeake and Ohio Railway Company  
( (Northern Region)

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

(1) The dismissal of Trackman Gary Frazier for being allegedly absent without authority on September 7 and 8, 1976 was without just and sufficient cause; on the basis of unproven and disproven charges; extremely disproportionate to the offense with which charged [System File C(No)-D-340/MG-16957].

(2) Claimant Frazier shall now be extended the benefits of Agreement Rule 24(e)."

OPINION OF BOARD: The facts in this case are that Claimant Frazier performed no service on his assignment on the dates in question; that he had not attempted to obtain permission to be absent from his assignment on the dates in question; that he had not notified any Carrier representative concerning his absence on the dates in question; that he offered no reason for his absence when he did return to service and that Claimant had a record of prior instances of unauthorized absences for which discipline had been administered in progressive increments.

Based upon our review of the entire record in this case, we are not at liberty to substitute our judgment for that of the Carrier; and therefore, we can find no basis on which to overturn the discipline as assessed. While dismissal from service is a harsh penalty, this record - including the prior similar infractions - supports the action as taken.

We must deny the claim as presented.

Because of our having reached this conclusion, it is not necessary that we address ourselves to the procedural contentions advanced by Carrier.

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 31st day of January 1979.