

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22315
Docket Number MW-22413

Joseph A. Sickles, Referee

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

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

(1) The dismissal of Trackman Timmy Burke because of allegedly unauthorized absenteeism on August 16, 19, 23, 27, 31, September 3, 7, 9, 10, 13, 14, 15, 17, 20, 21, 22, 23 and 24, 1976 was unduly and excessively harsh and wholly disproportionate to the offense with which charged (System File MG-1731/C-MISC-372).

(2) The Claimant shall be restored to his position as trackman with pay for all time lost, including incidental overtime and with seniority, vacation and all other rights unimpaired."

OPINION OF BOARD: On September 20, 1976, Claimant was advised to attend an investigation concerning asserted unauthorized absenteeism. Subsequent to the investigation, Claimant was dismissed from service.

The Claimant admitted to a number of unauthorized absences and he testified that he permitted a very personal family problem to "...get involved with my work." In essence, the Claimant urges us to disallow the dismissal from service as being disproportionately harsh.

Our review of the record indicates that the Employee was absent on 18 days during a span of about five (5) weeks, and that he failed to give any advance notice prior to the absences. Nor do we find any specific explanation for the absences beyond the very general indication of "personal family problems."

We are not at liberty to substitute our judgment for that of Carrier in a dispute such as this unless we are convinced that the Carrier's actions are arbitrary, etc. Nothing has been presented to us which would warrant such a finding.

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. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of February 1979.

