

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22494
Docket Number MW-22532

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(St. Louis-San Francisco Railway Company

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

(1) The record of Trackman James Cypress was improperly closed by the Carrier on March 7, 1977 as a consequence of the claimant's involuntary absence from work because of illness and the Carrier's refusal to permit him to return for light-duty service (System File MISC.)

(2) The closing of the claimant's record shall be rescinded; the claimant shall be returned to service with all rights intact and with pay for all time lost since the date he was released by his doctor for full time service."

OPINION OF BOARD: The Claimant was not permitted to return to service with a "light duty" slip because Carrier had no such employment available. Thereafter, Carrier "closed his record" on account of being off over 30 days without a leave of absence.

We are of the view that Rule 87 disposes of this dispute, absent a showing that a written leave of absence was approved by the appropriate Carrier Official.

The record contains some assertions regarding a request for a leave of absence, but there is not a sufficient showing to satisfy Claimant's burden of proof.

We have noted certain asserted procedural deficiencies; however, our decision here makes it unnecessary to deal with those allegations.

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. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 24th day of August 1979.