

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22527  
Docket Number MW-22690

Paul C. Carter, Referee

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

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

(1) The dismissal of Track Laborer Eddie L. Sturdivant, Jr. was without just or sufficient cause; was capriciously and arbitrarily imposed; was extremely disproportionate to the offense with which charged (System File C(So)-D-492/MG 1951).

(2) The Carrier shall reinstate Claimant Sturdivant to service with pay for all time lost."

OPINION OF BOARD: Claimant had been in carrier's service about four and one-half years, and in July, 1977, was regularly assigned to Force 1121, with headquarters at Elk, West Virginia.

Following investigation conducted on August 9, 1977, claimant was notified on August 19, 1977, that he was dismissed from service for being absent from duty without permission on July 18, 20, and 21, 1977.

We have reviewed the transcript of the investigation conducted on August 9, 1977, and find substantial evidence to support the charge for which claimant was dismissed.

The record also shows that this was the fourth assessment of discipline against claimant for similar offenses. It is apparent that the prior discipline did not have the desired effect.

The claim will be denied.

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. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 28th day of September 1979.