

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23137  
Docket Number MW-23267

Paul C. Carter, Referee

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

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

(1) The dismissal of Trackman Doc Mickens for alleged excessive absenteeism was without just and sufficient cause and in violation of the Agreement (System File B-1464).

(2) Trackman Doc Mickens shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: The record shows that claimant was employed as a trackman on April 9, 1974. At the time of the occurrence giving rise to the dispute involved herein, he was assigned to System Rail Gang No. 2, working in the vicinity of Winslow, Arkansas, under the supervision of Assistant Roadmaster L. A. Neill and Foreman J. W. Johnson.

On February 20, 1979, claimant was dismissed from service for excessive absenteeism, in violation of Carrier's Rule 189, which reads:

"Employees must not absent themselves from their duties, exchange duties with nor substitute others in their place, without proper authority."

Upon request of the Organization, a formal investigation was scheduled for claimant, commencing at 8:30 a.m., March 22, 1979. The claimant did not appear for the investigation, which was conducted in his absence. About a month later the Organization contended that the reason for the claimant not appearing at the investigation on March 22, 1979, was because of car trouble.

It would appear reasonable that if claimant's failure to appear at the investigation on March 22, 1979, was due to car trouble, that he would have at the time contacted his superior officers or the Organization representative and explained the situation; however, he did not do so.

There was substantial evidence adduced at the investigation conducted in claimant's absence on March 22, 1979, that claimant was absent without permission on February 20, 1979. The record also shows that claimant had previously been disciplined for absenteeism and had been warned on numerous occasions.

On the entire record, there is no proper basis for the Board to interfere with the discipline imposed by the Carrier. 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. Paulke  
Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1981.

