

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23417  
Docket Number MW-23285

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Terminal Railroad Association of St. Louis

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

(1) The ten (10) day suspension imposed upon Track Laborer Stanley M. Sumling for allegedly failing to protect his assignment on November 1, 1978 was without just and sufficient cause and on the basis of unproven charges (System File TRRA 1979-1).

(2) The claimant shall be compensated for all wage loss suffered."

OPINION OF BOARD: On November 1, 1978, claimant S. M. Sumling was a regularly assigned track laborer in System Gang No. 4. He did not report for work on that date, but rather called in at 7:50 a.m. to report off, account he overslept. Track Supervisor Stogner told claimant to come in, even though he was late, because he was needed. Claimant told Stogner that he was going to the hospital to get a doctor's release slip. He was informed that he did not need such a slip.

Claimant was not heard from again until he arrived at work on November 2, 1978. He was charged with failure to protect his assignment. A hearing was held in the matter on November 16, 1978. At the conclusion of that hearing, Carrier found claimant guilty as charged and assessed a 10-day suspension.

A review of the transcript of the hearing and the remainder of the record of this case reveals that claimant was granted a full and fair hearing and that Carrier did not violate the agreement by finding claimant guilty of failing to protect his assignment. Further analysis reveals that a 10-day suspension in this instance was justified.

Claimant was given an opportunity to produce a doctor's statement to corroborate his story that he was under a doctor's care and taking medication on the day in question. He failed to produce that evidence. It can only be concluded from this failure that claimant could not, in fact, obtain such a document.

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 Employee involved in this dispute are respectively Carrier and Employee 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 3rd day of November 1981.

