

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23958
Docket Number MW-23936

Ida Klaus, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees
{ Seaboard Coast Line Railroad Company

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

(1) The discipline imposed upon Trackman J. B. Stephens ('letters of caution' dated January 4 and 5, 1979) was without just and sufficient cause (System File C-4 (13) -JBS/12-39(79-32) J).

(2) Said 'letters of caution' shall be expunged from the claimant's personal record and he shall be compensated for all wage loss suffered and for all expenses incurred attending the hearing held on January 29, 1979."

OPINION OF BOARD: The Claimant protests that two letters of caution for his alleged failure to obtain permission for absence on each of two days, or to furnish proof of his inability to do so, were issued without just cause.

Two issues are presented to the Board: (1) Whether the letters of caution constitute disciplinary action; (2) whether there is substantial evidence of a probative nature to support the issuance of the letters. We answer both in the affirmative.

In the opinion of the Board, the letters of caution must be deemed to be disciplinary in nature. Their inclusion in the Claimant's personal record reasonably indicates that they will be used as a base for the imposition of further discipline for future infractions. The Carrier evidently believed them to be disciplinary when it granted the Claimant's request for a hearing.

With respect to the second issue, it is undisputed that the Claimant had the opportunity to properly justify his asserted inability to report the absences but that he failed to do so. From that significant fact and from the testimony accepted as credible by the Carrier, the Board concludes that the record affords substantial support of a probative nature for the letters of caution.

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 Employes involved in this dispute are respectively Carrier and Employes 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: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of August 1982.

