NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 24040
THIRD DIVISION Docket Number MW-24126

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Louisiana and Arkansas Railway Company

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

(1) The five (5) day suspension imposed upon Laborer L. Brisker for alleged unauthorized absence on February 15, 1980 was unwarranted and without just and sufficient cause (Carrier's File 013.31-235).

(2) The claimant shall be compensated for all wage loss suffered including overtime and holiday pay."

OPINION OF BOARD: Claimant herein was accorded a five day suspension, following an investigation, for absence without proper authority on February 15, 1980. Petitioner alleges that Claimant had to go to an attorney's office to avoid a garnishment of his pay on the morning in question. Also, it is argued that Claimant attempted unsuccessfully to contact his superiors that same morning.

Carrier notes that Claimant was aware that he needed permission to absent himself from his job and that he had failed to do so for the day in question. Claimant, according to Carrier, admitted that he had violated the rules by failing to seek permission for his absence and hence the discipline was appropriate.

Claimant stated, during the investigation, that he attempted to call his foreman at 6:30 A.M. but that the line was busy. He also stated that he attempted to call another supervisor at an unspecified time but that he got no answer. Since Claimant's appointment with the lawyer was at 10:00 A.M., it is this Board's view that Claimant was far from diligent in his unsuccessful attempts to contact his supervisors. He obviously could have requested permission to be off the night before, when he received the communication from the lawyer and further he had several hours in the morning for the same purpose. Calling but finding the line is busy is not an adequate reason for failure to seek permission to be off under circumstances such as that indicated above. The importance of regular attendance and the necessity for Carrier to anticipate absence is too well known as to require elaboration here. It is sufficient to note that Claimant was not diligent in his actions and was properly penalized for his failure to appear at work or to secure permission to be absent.

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 29th day of November 1982.