NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 24199
Docket Number MW-24137

THIRD DIVISION

John B. LaRocco, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Burlington Northern Railroad Company

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

(1) The dismissal of Sectionman Michael E. Wilkie for alleged violation of 'Rule 702B' was unwarranted and wholly disproportionate to the charge leveled against him (System File T-M-302C).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered beginning February 21, 1980."

OPINION OF BOARD: The pertinent facts are uncontested. Claimant failed to report to work on January 14, 1980 after taking a one week vacation. When Claimant consistently failed to protect his assignments during the period from January 14, 1980 to January 25, 1980, the Carrier sent Claimant a certified letter ordering him to report to work by February 1, 1980. In the letter, the Carrier explicitly warned Claimant that if he failed to report on February 1, 1980, he would be subjected to disciplinary action. During the period of Claimant's absence, the Carrier's Roadmaster attempted to contact Claimant at a local alcoholic rehabilitation and treatment center but he was told Claimant had voluntarily left without completing the treatment program. Claimant did not report to duty on February 1, 1980.

By notice dated February 5, 1980, the Carrier scheduled an investigation to determine if Claimant had disobeyed proper instructions by failing to report to work on February 1, 1980. Claimant did not attend the investigation which was held on February 13, 1980. On February 21, 1980, the Carrier dismissed Claimant.

In spite of receiving proper notification of the February 13, 1980 investigation, Claimant failed to appear at the investigation to defend himself. Claimant was absent each working day after January 14, 1980 and furthermore, he did not call the Carrier to explain his continued and unauthorized absence. On the other hand, the Carrier made every reasonable effort to contact Claimant but was unsuccessful. Thus, the Carrier has proved that Claimant committed the charged offense.

The Organization argues that the penalty of dismissal was excessive. However, the record contains ample evidence that Claimant did not show any interest in retaining his job. Due to the seriousness of the offense as well as Claimant's apathetic attitude, we must uphold the discipline.

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 14th day of March 1983.