

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24309
Docket Number MW-24170

Edward L. Suntrup, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees
{ Missouri Pacific Railroad Company

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

(1) The dismissal of Trackman K. A. Govant for being absent from work 'on January 2, 1980, without proper permission and/or authority' was excessive and wholly disproportionate to the offense with which charged (Carrier's File S 310-334).

(2) Trackman K. A. Govant shall be reinstated with seniority, vacation and all other rights unimpaired and he shall be compensated for all wage loss suffered including holiday pay."

OPINION OF BOARD: Claimant, Mr. K. A. Govant, entered service of the Carrier as a trackman on July 7, 1976. On January 10, 1980 he received notice to report for formal investigation on January 17, 1980 to:

"develop the facts and place responsibility, if any, in connection with (his) absenting (himself) from (his) duties as trackman on Gang 5492, working Longview Subdivision, on January 3, 1980, without proper permission and/or authority."

The hearing date was subsequently postponed and rescheduled for February 5, 1980. Claimant did not attend this hearing. On the same date a second hearing was held to attempt to determine why Claimant also did not attend the hearing originally scheduled for January 17, 1980 which was the reason why that hearing was rescheduled for February 5, 1980.

By letter dated February 6, 1980 Claimant was notified by the Carrier that he was dismissed from service.

A review of the transcripts of both hearings indicate that sufficient substantial evidence is present to warrant the discipline imposed by the Carrier. There is unrefuted testimony that Claimant did not return to work at 6:30 P.M. on January 2, 1980 as he was instructed to do, nor did he make any attempt to notify the Carrier that he could not cover his assignment on that day. This Board has gone on record numerous times to the effect that absence without authority can merit discharge from service (See Third Division 10974, 16860, 21004 inter alia). There is also irrefuted testimony to the effect that the Claimant simply disregarded the notice for the investigative hearing which was to be held on January 17, 1980. Public Law Board No. 2010 (Award 15) establishes precedent, which this Board cites with favor, that employees are not to be granted the right to boycott investigations with impunity.

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: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of April 1983.

