

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24553
Docket Number MW-24176

John B. LaRocco, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Green Bay and Western Railroad Company

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

(1) The dismissal of Section Laborer Victor Duxtator for being absent from duty without permission on July 9, 10 and 11, 1980 was excessive and wholly disproportionate to the offense with which charged (Carrier's File 600-779).

(2) Section Laborer Victor Duxtator shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant, a seasonally employed Laborer, was absent from work without proper authority from July 7, 1980 to July 11, 1980. Claimant called his supervisor to report he was ill on July 7 and 8, 1980 but did not call in again until after the conclusion of his shift on July 11, 1980. Though Claimant contacted his supervisor on two days, the supervisor did not excuse Claimant's absences. Subsequent to an investigation held on July 14, 1980, the Carrier dismissed Claimant from service.

The Carrier presented substantial evidence demonstrating that Claimant was absent without proper authority. Regardless of whether or not Claimant was genuinely ill, he neglected to call his supervisor on three of the five days he was absent. Claimant admitted to that he did not report to work on the days in question.

Claimant's unauthorized absence in July, 1980 was the latest in a long series of similar violations. The record reveals that Claimant has, during his short tenure with the Carrier, received five warnings as well as a thirty day suspension for excessive absences. Claimant has made no effort to improve his attendance record. On the contrary, Claimant's attendance record was deteriorating rather than improving. The prior discipline did not motivate Claimant to reduce the number of his absences. Evidently, Claimant had little interest in retaining his position with the Carrier. His repeated, chronic and inexcusable absences, in spite of having numerous opportunities to better his attendance record warrants severe 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 Employee involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approve June 21, 1934;

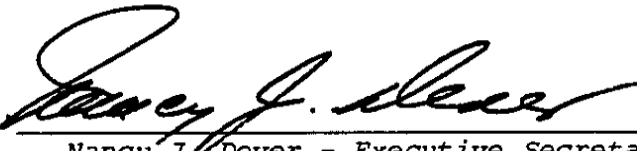
That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest, 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 4th day of November, 1983

