

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24568
Docket Number MW-24776

Tedford E. Schoonover, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(New Orleans Public Belt Railroad

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

(1) The dismissal of Painter W. Hickman, Jr. for alleged 'continued unauthorized absences from your assigned duties' was without just and sufficient cause (Carrier's File 013.8).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, his record cleared and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: Claimant was dismissed from service effective October 21, 1981, for alleged continued unauthorized absences from assigned duties, disregard of verbal and written warnings and previous disciplinary actions.

A hearing on his dismissal was set for November 9, 1981, but claimant insisted he did not receive notice thereof due to being out of town. Although the hearing was conducted in his absence a second hearing was scheduled and held on December 8, 1981. At the hearing claimant was represented by officers of the Union who participated in the questioning of witnesses.

Claimant's absence from work on October 20, 1981, was the incident which precipitated his dismissal. On that occasion he called in before work time and advised he would not report for duty because of illness. At the hearing carrier introduced voluminous evidence establishing that claimant had been absent on numerous occasions without obtaining informal leave of absence. These absences were discussed with claimant by his supervisor. In addition, during September 1981, he was assessed 5 working days, without pay, as a disciplinary action in an effort to bring about an improvement in his work attendance. None of these actions resulted in any real improvement.

Through action by the Union on appeal from the dismissal action, Carrier agreed to reinstate claimant on a leniency basis without pay. This was declined; claimant insisted on pay for time lost.

It is well established that an employer has a right to expect and rely on reasonably regular attendance of employees. The requirements of a job project cannot be met without a work force that can be depended on to be at work on a regular basis. An employer has every reasonable right to dispense with workmen who demonstrate unreliability in attendance. In this case the Claimant was given numerous warnings with the view his attendance habits would improve but to no avail. Not even a suspension without pay brought about the needed improvement. All of the requirements of the Agreement were met in the effectuation of his dismissal. In these circumstances the Division has no basis for reversing the Carrier's action. There is likewise no basis in support of a contention that action of the Carrier in dismissing the claimant was arbitrary or capricious.

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

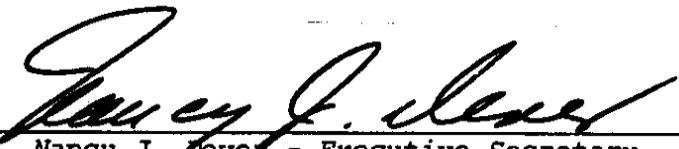
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 17th day of November, 1983.

