

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24794
Docket Number MW-24806

Eckehard Muessig, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Missouri-Kansas-Texas Railroad Company

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

(1) The dismissal of Laborer L. J. Diggs for alleged violation of Rules 'A' and 'M' was without just and sufficient cause (System File 300-29).

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

OPINION OF BOARD: The Claimant here, some four months subsequent to his employment with the Carrier, was dismissed from the service for excessive absenteeism. The discipline of dismissal was reaffirmed by the Carrier upon appeal.

The Carrier contends that the Claimant had been personally counseled, instructed, and warned about its attendance requirements to no avail. Moreover, it maintains that no evidence was presented to show that the Claimant had notified and/or received permission from the Carrier to absent himself from work.

The Organization argues vigorously, relying principally upon the Claimant's testimony during the hearing on the property, that he had indeed received approval for his absences and, therefore, had complied with the rules applicable to the claim.

After reviewing the record, the Board is satisfied that there is evidence to support the finding of guilt.

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

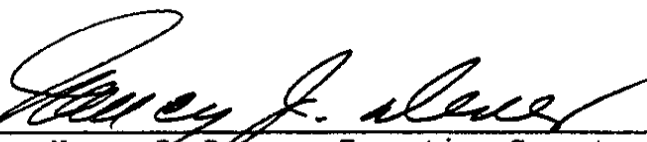
That the Agreement was not violated.

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 30th day of April, 1984

