

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24850
Docket Number MW-24946

John E. Cloney, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(The Chesapeake and Ohio Railway Company

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

(1) The suspension of Trackman P. D. Armstead commencing October 5, 1981, pursuant to Section 4 of Memorandum of Agreement dated July 25, 1977 was improper and without reasonable cause (System File C-M-1228/MG-3249).

(2) Trackman P. D. Armstead be returned to service with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: Claimant P. D. Armstead was employed as a trackman when he became ill on September 21, 1981. He was taken to the office of Dr. J. Blaine Blayton who treated him and sent him home where he was bedridden until September 25 when he returned to the doctor's office. He was then given a statement by the doctor noting claimant was "necessarily confined to his home under my care" and could return to work on September 25.

Claimant who has no telephone, did not notify the carrier as to the reason for his absence until September 28, 1981 when he reported for work and gave the foreman the doctor's statement.

The Carrier and the Organization are signatory to an Agreement which waives formal hearings in absenteeism cases and provides progressive discipline up to and including dismissal.

By letter of September 28, 1981 the Carrier notified claimant he was being suspended for ten days for being absent without permission. The letter referred to a May, 1979 warning letter and a five day overhead suspension in July, 1981 for unauthorized absence.

On January 4, 1982 Claimant was discharged from service for being absent without authority.

On November 4, 1982, when the Organization notified the Board it intended to file an ex parte submission it referred to claimant's "dismissal...effective... January 5, 1982". On December 8, 1982 the Organization requested the notice be corrected to refer to the "Suspension...commencing October 5, 1981".

Claimant contends the suspension was improper in that the absence was due to a substantiated illness and he was unable to notify the Carrier.

The Carrier contends Claimant had received a five day overhead suspension in October, 1980 in addition to the warning and the overhead suspension referred to in the September 28, document. Thus the Carrier maintains the discipline was properly progressive within the terms of the Agreement.

This Board believes grievant's 10 day suspension was reasonable particularly in view of his history of discipline for attendance related problems. It was claimant's responsibility to notify the Carrier of his illness as he had done in the past.

It must be noted that the matter of Claimant's discharge is not before this Board.

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

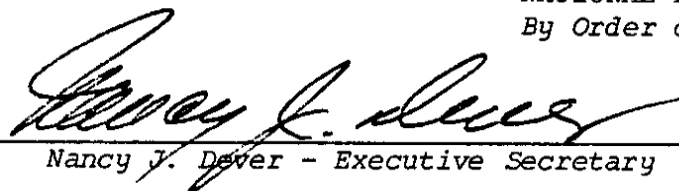
That the Agreement was not violated.

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 28th day of June, 1984