

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24982
Docket Number MW-24774

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Milwaukee-Kansas City Southern Joint Agency

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

(1) The thirty (30) days of suspension imposed by Section Laborer T. M. Vogel for alleged "responsibility for being away from your job from 12:00 Noon until about 1:00 P.M. Monday April 13, 1981, and for the unauthorized use of a truck" was without just and sufficient cause, unwarranted and on the basis of unproven charges (Carrier's File 013.31-251).

(2) The claimant's record shall be cleared of the charges levelled against him and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: Claimant T. M. Vogel, a Section Laborer with about two and a half years service, was directed to report for an investigation held on May 14, 1981 "to ascertain the facts and determine your responsibility for being away from your job from 12:00 noon until about 1:00 PM, Monday April 13, 1981 and for the unauthorized use of a truck owned by Contractor Bill Chard during this same period." On May 29, 1981 the Carrier issued a 30-day suspension for violation of General Rules 11 and 14 of the Milwaukee-Kansas City Southern Joint Agency Special Instructions No. 4 effective January 1, 1976.

A review of the record before this Board establishes that there was substantial evidence to sustain Carrier's decision to discipline Claimant. However, as Claimant was only a passenger in the vehicle, and as the purposes of progressive discipline would still be served by a lesser penalty, the 30-day suspension is reduced to a 15-day suspension.

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 discipline was excessive.

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Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Lever - Executive Secretary

Dated at Chicago, Illinois this 12th day of September 1984.