

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26022
Docket Number MW-26011

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(National Railroad Passenger Corporation
((Northeast Corridor)

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

(1) The ten (10) days of suspension imposed upon Trackman J. A. Bond for alleged 'VIOLATION OF AMTRAK - BMWE ABSENTEEISM AGREEMENT' involving absence on 'March 10 and 11, 1983' was improper, unwarranted and in violation of the Agreement (System Docket NEC-BMWE-SD-611D).

(2) The Claimant's record shall be cleared of the charge leveled against him and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: The Claimant is employed by the Carrier as a Trackman assigned to Gang A402 at the B&P Tunnel, Baltimore, Maryland. At the time he was issued a ten (10) day suspension for absenteeism on March 22, 1983, by Certified Mail, Return Receipt Requested, the Carrier directed the Claimant to report for a Hearing on April 5, 1983, for being absent without authorization on March 10 and 11. The Claimant did not attend the Hearing and did not request a postponement prior to the Hearing. The Organization did request a postponement at the Hearing, but it was denied. The Organization asserts this denial was an arbitrary exercise of the Trial Officer's authority.

The record discloses the Notice of Hearing was properly addressed to the Claimant at his current address. The letter was returned to the Carrier by the Post Office because it was unclaimed. It is the opinion of this Board that the Notice was given with ample lead time and that Postal Service records show the Carrier's efforts of delivery were bona fide and the only reason delivery was not made was entirely within the control of the Claimant.

With respect to the charge of unauthorized absence, the record discloses the Claimant did not call the designated Carrier number to mark off from work. Considering the Claimant's prior record dealing with unauthorized absences, this Board finds no basis to disturb the Carrier's imposition of 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 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 May 1986.

