

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26102
Docket Number MW-26364

John W. Gaines, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Consolidated Rail Corporation

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

(1) The dismissal of Welder J. L. Mitchell for alleged 'Failure to report for duty ... on February 13, 14, 15, 16, 1984 and reporting for duty after starting time on February 9, 1984, which ... constitutes excessive absenteeism' was without just and sufficient cause and in violation of the Agreement (System Docket CR-778-D).

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

OPINION OF BOARD: Claimant is a Welder with five years' service. He was discharged by Carrier effective March 21, 1984, for documented failure to report for duty on February 13, 14, 15, 16, 1984, and for reporting for duty after starting time on February 9, 1984.

Claimant offers different causes for his absenteeism and lateness to work, chiefly sickness. The Organization asserts that they all constitute good and justifiable causes.

Our feeling is that discipline is warranted, noting at the same time that there is some history of absenteeism in Claimant's service record.

However, the severe penalty of dismissal is deemed excessive. We reinstate Claimant to service with seniority and all rights unimpaired but with no compensation for time lost. This serves as a last chance warning to Claimant that future conduct of this nature cannot be tolerated in the Railroad industry.

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 imposed was excessive.

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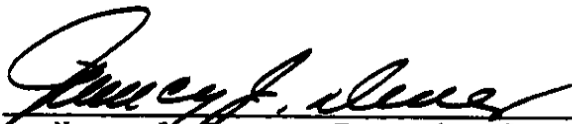
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Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of August 1986.

