

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26234  
Docket Number MW-26359

Charlotte Gold, Referee

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

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

(1) The three (3) days of suspension imposed upon Welder R. L. Shivers for alleged absence without permission on October 27, 1983 was unwarranted and in violation of the Agreement (System Docket 631-D).

(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: On December 2, 1983, Claimant, a Welder in the Canton Shop in Canton, Ohio, was issued a three-day suspension, following an investigation into his alleged failure to be absent without permission on October 27, 1983, when he "failed to report for duty" and "failed to properly report off."

Carrier maintained that Claimant had been counselled about his absenteeism record and that, by long-standing Shop policy, he was required to call in by 8:00 A.M. if he was going to report off. He did not call until 8:55 A.M., at which time he merely asked that a message be passed on to the Superintendent. He gave no reason for his absence.

The Organization maintains that Claimant made four attempts to call Carrier, beginning at 7:15 A.M., before he was finally able to get through. It believes that Carrier's Shop policy requiring employees to call by 8:00 A.M. is stricter in application than Rule 28(a) of the parties' Agreement and has no binding effect here.

At the heart of this case is a factual dispute as to whether Claimant called Carrier in a timely manner when he sought to report off on October 27, 1983. Generally, as in this case, when there is no factual evidence to support an employee's allegation that a call was made, a claim is either dismissed or declined. The Hearing Officer at the investigation clearly chose to credit Equipment Engineer Gray's testimony that there were ten telephone lines available that day and we cannot do otherwise.

We find no basis for concluding that Carrier did not have a right to establish an early call-in policy and given the fact that, according to Carrier, Claimant was counselled about his eleven absences in a three-month period and his failure to obtain authorization, we have no basis for setting aside Carrier's three-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

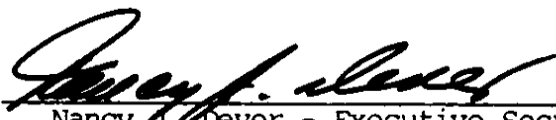
That the Agreement was not violated.

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 29th day of January 1987.