

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26268
Docket Number MW-26522

Edward L. Suntrup, Referee

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

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

1. The three (3) working days suspension imposed upon Repairman J. E. Hester for alleged 'Absent without permission on October 12, 1983, and October 27, 1983' was without just and sufficient cause and on the basis of unproven charges (System Docket CR-672-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: The Claimant was advised on November 8, 1985, to attend an Investigation to determine facts and place responsibility, if any, in connection with allegedly being absent without permission from his assignment on October 12, 1983, and October 27, 1983, at the Carrier's Canton Maintenance of Way Shop, Canton, Ohio. After postponement the Investigation was held on November 15, 1983. Following the Investigation the Claimant was notified that he had been assessed a three (3) day suspension.

A review of the record shows testimony by the Assistant Equipment Engineer to the effect that the Claimant failed to cover his assignment on October 12 and 27, 1983. On those days individuals other than the Claimant called the Carrier at 12:01 P.M. and 3:00 P.M., respectively to report him off. The Claimant does not deny this nor does he deny that he was familiar with the Carrier's policy which required notice to the Carrier prior to 8:00 A.M. if an employee for whatever reason had to report off. On merits the Claim cannot be sustained.

Precedent from various Divisions of the Board, applicable to the instant case, establish that Carriers have the right to discipline employees who ". . . repeatedly (are) unable or unwilling to work the regular and ordinarily accepted shifts" (Second Division 5049) or who do not advise Carriers of impending absences according to known and established practices (also First Division 16173; Second Division 7348). The record further establishes that the Claimant was counseled at the beginning of the month of October of 1983 about an earlier unauthorized absence and that, according to testimony at the Investigation by the Assistant Equipment Engineer, was ". . . informed of the importance for him to report off before 8:00 A.M. if he was to be absent." In view of this the three (3) day suspension was neither arbitrary nor unjust.

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

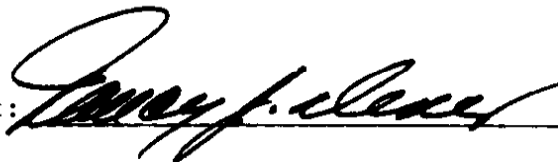
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

A handwritten signature in cursive script, appearing to read "Nancy J. Dever", is written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 20th day of March 1987.