

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26397
Docket Number MW-26988

Edwin H. Benn, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Soo Line Railroad
(formerly Chicago, Milwaukee, St. Paul and
(Pacific Railroad Company)

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

(1) The dismissal of Laborer D. R. Flynn for alleged failure to report for work with Savanna Section at 7:00 A.M. on July 9, 1984, was unwarranted, without just and sufficient cause and in violation of the Agreement (System File C#21-84/D-2660).

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

OPINION OF BOARD: Claimant was furloughed in connection with a general force reduction on June 22, 1984. Although agreeing to fill a four week vacation vacancy commencing July 9, 1984, Claimant did not protect that assignment and was subsequently considered by the Carrier to have forfeited his seniority. Thereafter, Claimant declined the Carrier's offer to permit him to return to service without compensation for time lost effective October 8, 1984.

Our review of the record satisfies us that the Carrier's action was justified. Under the circumstances, Claimant should have accepted the Carrier's reinstatement offer. We shall permit Claimant another chance to accept that offer and shall award that he be returned to service with seniority unimpaired, but without compensation for time lost.

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 Carrier's action was justified and Claimant should have accepted the reinstatement offer.

A W A R D

Claim disposed in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois this 13th day of July 1987.