

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26398
Docket Number MW-27134

Edwin H. Benn, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employes
(The Kansas City Southern Railway Company

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

1. The dismissal of Track Laborer E. Thomas for alleged unauthorized absence on February 15 and 22, 1985 and March 1 and 14, 1985, was without just and sufficient cause and on the basis of unproven charges (Carrier's File 013.31-329).

2. The claimant shall be reinstated with seniority and all other rights unimpaired, his record cleared of the charges leveled against him and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant was dismissed for being absent from duty without permission on February 15, 22, March 1 and 14, 1985. The record demonstrates substantial evidence to support the Carrier's determination that although the absences were due to medical appointments, Claimant did not obtain proper authorization for those absences as required by Rule Q. However, under the circumstances presented, we find that the amount of discipline imposed was excessive and we shall therefore award that Claimant 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 Employes involved in this dispute are respectively Carrier and Employes 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

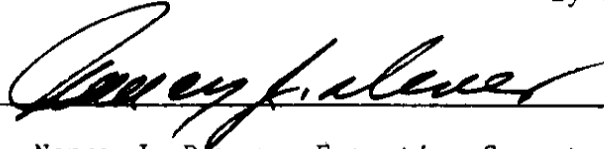
That the discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Dever - Executive Secretary

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