

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26447
Docket Number MW-26453

Herbert L. Marx, Jr., Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(National Railroad Passenger Corporation
(Amtrak) - Northeast Corridor

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

(1) The ten (10) days of suspension imposed upon Foreman L. Hammond for alleged 'Excessive lateness', 'In that you reported late for duty on ... January 10, 12 and 18, 1984' was arbitrary, capricious and without just and sufficient cause (System File NEC-BMWE-SD-796D).

(2) The claimant's record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant was subject to a Trial on the charge of "excessive lateness in reporting for duty ... in that you reported late for duty on ... January 10, 12, and 18, 1984." Following the Trial, Claimant was assessed a disciplinary penalty of 10 days' suspension.

The Organization raised objection to the "lack of specificity" of the Trial charge, in that no violation of particular rule was cited. The Board finds that the charge was sufficiently precise to permit a full defense for the Claimant. No specific rule citation is required in regard to tardiness; whether or not the Claimant's tardiness was "excessive" remained to be determined at the Trial.

The Trial Officer's refusal to permit questions concerning tardiness of other employees did not, in the Board's view, impair the conduct of a fair Trial.

On the three dates specified, the Claimant reported late 30 minutes, 20 minutes, and 40 minutes, respectively. While he indicated that transportation problems were responsible for his tardiness, there is no indication that the Carrier had accepted this reason as a satisfactory excuse. The record shows that the Carrier had previously counseled and given a Letter of Warning to the Claimant because of previous lateness. Although the Claimant did not recall these instances, there is no basis for the Board to assume that the Carrier's records in this regard are inaccurate.

Employees are, of course, expected to arrive at work promptly. In this instance, the Claimant served as a Foreman, which should have made him particularly aware of this requirement, particularly since he supervised other employees. The previous counseling, the Letter of Warning, and the three tardinesses within an eight-day period clearly justified the Carrier's resulting disciplinary action.

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

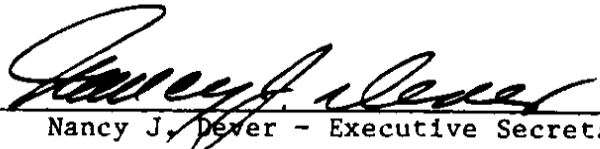
That the Agreement was not violated.

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 24th day of August 1987.