

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

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 three (3) days of suspension imposed upon Carpenter H. Callahan III for alleged violation of Rule 'K' on December 6, 1983, was arbitrary, capricious and on the basis of unproven charges (System File NEC-BMWE-SD-827D).

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

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Claimant is a B&B Carpenter who was employed by the Carrier on August 27, 1977. On December 6, 1983, the Carrier charged that the Claimant's whereabouts were unknown from approximately 8:15 A.M. until 10:30 A.M.

The record indisputedly establishes that, at approximately 7:20 A.M., the Claimant was told to go to Gwynn Interlocking facility. Shortly thereafter, it is again unchallenged that the orders were changed. The Foreman testified he immediately went to Gwynn to inform the Claimant the orders were changed. The General Foreman testified he arrived at Gwynn at approximately 8:45 A.M. and found no evidence of anyone's presence, including the Claimant. He looked for the Claimant for about forty-five minutes and found no evidence of his presence. Examination of the Claimant's testimony convinces this Board that the Carrier had sufficient probative evidence to conclude he did not attend to his duties for the period charged by the Carrier.

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Award No. 26828
Docket No. MW-26520
88-3-85-3-257

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 25th day of February 1988.