

The Third Division consisted of the regular members and in addition Referee Ronald L. Miller when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Soo Line Railroad Company (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 Section Laborer M. J. Kurvers for alleged failure to protect his position on February 1 and 21, 1985 and tardiness on February 22, 1985, was without just and sufficient cause and on the basis of a hearing that was neither fair nor impartial (System File C #23-85/D-2689).

(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."

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 has been repeatedly warned, orally and in writing, concerning his responsibility to properly protect his assignment. Additionally, he was suspended from service for thirty (30) days as a result of his failure to protect his assignment, and assessed a thirty (30) day deferred suspension (with a one (1) year probationary period and a ten (10) day actual suspension) for again failing to properly protect his assignment.

In spite of the warnings and disciplinary suspensions, the Claimant failed to protect his assignment on February 1, 1985 and February 21, 1985. On both dates, the Claimant did not notify the Carrier that he would be absent, nevertheless, on both days he later contacted the Carrier's office to request vacation pay. The Claimant was absent on both days without authority.

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88-3-86-3-216

Excessive, unauthorized absences from work, in the context of repeated and clear warnings as to the consequences of such conduct, are properly a basis for dismissal. In this case, the Board finds no reasonable cause for setting aside or mitigating the dismissal of the Claimant.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dexter - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1988.