Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 26927
THIRD DIVISION Docket No. MW-26650
88-3-85-3-392

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Consolidated Rail Corporation

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

(1) The five (5) days of suspension imposed upon Repairman T. H. Gray for alleged 'Failure to report for duty at the Canton MW Shop, Canton, Ohio on February 1, 1984 and February 15, 1984 which in light of your previous attendance record ... constitutes excessive absenteeism' was without just and sufficient cause and a gross abuse of justice and discretion by the Carrier (System Docket CR-967D).

(2) The claimant's record shall be 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 employe or employes involved in this dispute are respectively carrier and employes 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.

Claimant was subject to an investigative hearing on the following charge:

> "Failure to report for duty at Canton MW Shop, Canton, Ohio on February 1, 1984 and February 15, 1984, which in light of your previous attendance record (Absent April 22, 1983, May 5, 13, 1983, June 21, 1983, August 1, 1983, September 15, 1983; Late starts August 22, 1983, December 20, 1983, January 19, 1984; Early quit January 25, 1984) constitutes excessive absenteeism."

Following the hearing, the Claimant was assessed a five-day disciplinary suspension.

The record shows that the Carrier took no exception to the contention that the Claimant had reported off sick on February 1 and 15, 1984. Although no medical documentation for such absences was provided, the Carrier did not request such proof.

The Carrier, however, finds support for its discipline on an established absentee policy under which, following a warning to or discussion with the employee, any combination of three absences or partial days worked within a 30-day period makes an employee subject to a hearing and possible discipline.

The basis for the investigative hearing here is demonstrated in the charge.

The Organization argues that there was reasonable cause for the Claimant's absence on February 1 and 15, 1984, and his contention that he was ill was not questioned. The charge here, however, is for "excessive absenteeism." As established in many previous Awards involving the parties here as well as elsewhere, the legitimacy of one or more absences does not necessarily relieve the employee of a charge of an unsatisfactory record of attendance over an extended period. The record here demonstrates that the Claimant was warned in 1983, as to the consequences of continued unsatisfactory attendance and that, nevertheless, there occurred a series of such absences, leading to this investigative hearing. The Board finds that the Carrier acted within its discretionary authority to enforce attendance standards and that the resulting disciplinary penalty was appropriate.

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 30th day of March 1988.