

The Third Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(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. L. Callow III for alleged absence without permission on February 7, 1984 was unwarranted and in violation of the Agreement (System Docket CR-1032D).

(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 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.

By notice of February 9, 1984, the Claimant, who was employed as a Repairman in the Canton Shop, was notified to attend a Hearing. That Hearing considered his alleged absenteeism without permission on February 7, 1984. Following the Hearing, Claimant was found guilty as charged and assessed discipline of a five (5) days' suspension.

A complete review of the record indicates that there is a policy at the Canton Shop which was well understood by the Claimant. That policy requires employees to call by 8:00 A.M. if they are going to report off as sick. The Carrier maintains that the Claimant did not do so, but called in at 8:30 A.M.

The Organization argues that Claimant attempted to call at 7:15 A.M. and 7:45 A.M., but the lines were busy. The Claimant was clearly not guilty due to these circumstances. It further argues that Claimant did get through only fifteen minutes after the required time. The Organization also maintains that the Carrier was dilatory in handling the appeal of this case and as such the Carrier's decision should be overturned.

This Board has carefully reviewed the record. It finds that there is sufficient evidence for the Carrier's finding of guilt and no Agreement violation in the appeal process. Claimant does not deny familiarity with the Carrier's policy of calling in by 8:00 A.M. The Claimant admits that he did not contact the Carrier by the required time. A factual dispute over whether the phone lines were or were not busy was determined by the Carrier to be an inadequate defence given twelve telephone lines. This Board finds sufficient probative evidence of record that Claimant was absent without permission and therefore denies the Claim.

In light of past Awards that this Board has reviewed on absenteeism, including Third Division Award 26680 which indicates the Claimant's past record, this discipline cannot be found to be harsh, unreasonable or unjust (Third Division Awards 26342, 26265). This Board has ruled that patterns of unauthorized and excessive absenteeism can result in dismissal (Third Division Award 26266). The Board has no basis for setting aside the Carrier's five-day suspension. The Claim must be denied.

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 August 1988.