

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 27925
Docket No. CL-28019
89-3-87-3-576

The Third Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10197) that:

(a) Carrier violated the rules of the current Clerks' Agreement at Bakersfield, California on June 30, 1986, when it wrongfully removed Mr. L. J. Vasquez from the service of the Carrier, and

(b) Claimant L. J. Vasquez shall now be reinstated into the service of the Carrier, with all past rights restored on the basis they were prior to his dismissal from the service of the Carrier on June 30, 1986, and with pay for all time lost from June 30, 1986, forward.

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.

The record shows that Claimant was recalled to Carrier's service by notice dated February 14, 1986, and was scheduled to commence work on March 5, 1986. Claimant took vacation time March 5, 1986, to March 25, 1986. He requested and was granted medical leave of absence March 26 through June 14, 1986.

Claimant did not return to work at the expiration of his leave of absence, nor did he request an extension of the leave of absence prior to the expiration date. On June 30, 1986, Claimant was notified that his employment had been terminated.

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In the handling of the dispute on the property the Carrier pointed out that Claimant had been advised on June 5, 1986, that a Form 2820 Special would be required. Claimant picked up the Form on June 12, 1986, but did not sign the leave request form until June 30, 1986, the same day that he submitted the completed form to Carrier's office.

Rule 21(c) of the applicable Agreement provides:

"An employe who fails to report for duty at the expiration of the leave of absence shall be considered out of service, except that when failure to report on time is the result of unavoidable delay the leave of absence will be extended to include such delay."

The record is clear that Claimant did not report for duty at the expiration of his leave of absence on June 14, 1986, nor did he request an extension to his leave prior to its expiration. Under Rule 21(c) it was proper for Carrier to consider Claimant as out of service. Rule 21(c) is self-executing and where it is applicable hearing is not required under the discipline rule of the applicable Agreement. The claim will 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 6th day of June 1989.