

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Union Pacific Railroad Company

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

(1) The Agreement was violated when the Carrier improperly terminated Group 26 System Gang Employee S. J. Hill's seniority for allegedly being absent from service without proper authority for the following five (5) consecutive workday period: October 24, 25, 26, 27 and 28, 1988 (System File D-126/890214).

(2) As a consequence of the violations in Part (1) above, the Claimant shall be reinstated on the seniority roster, returned to work at the earliest possible date with benefits and all other rights unimpaired and he shall be compensated for all wage loss suffered, including benefits payable, beginning November 7, 1988 and continuing until the time he is reinstated to service."

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.

Claimant was employed as a Power Tool Operator on a System Tie gang. He last performed service with the tie gang on Friday, October 21, 1988. He was absent from his assignment on October 24, 25, 26, 27, and 28, 1988. By letter dated November 1, 1988, Claimant was advised that in accordance with the provisions of Rule 48(k) of the Agreement, his seniority was terminated.

Rule 48(k) reads as follows:

"Employees absenting themselves from their assignment for five (5) consecutive working days without proper authority shall be considered as voluntarily forfeiting their seniority rights and employment relationship, unless justifiable reason is shown as to why proper authority was not obtained."

A review of the record in this case reflects that the Claimant desired, and was attempting to obtain, a transfer from the maintenance of way department to a train service position. The record indicates that Carrier's policy in regard to attempted transfers from M of W service to train service was, in general, to permit the employee who made a request to vacate the M of W position for up to 30 days and attempt to qualify for the train service position. If the employee failed to qualify for the train service position, he would then be permitted to return to the M of W position. This policy is attested to in the record by a statement of the Program Engineer/Track.

In this case it is apparent from the record before us that the Claimant did not seek or obtain the permission of the Supervisor of the gang to which he was assigned to be absent from his position on the five (5) working days mentioned supra. It is argued by the Organization that the Claimant did attempt, on October 28, 1988, to obtain a leave of absence from a Timekeeper and an office clerk at the Division Service Unit and was informed that such a leave of absence was not required. This argument, however, begs the issue. It was Claimant's responsibility to obtain permission from his own Supervisor at his job site on or before October 24, 1988, to be absent from his assignment beginning October 24, 1988.

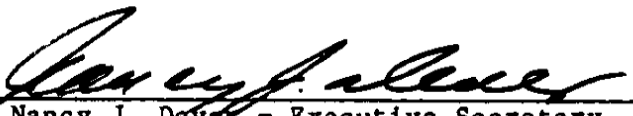
Rule 48(k) is clear, unambiguous and self-executing. In this record there is no justifiable reason shown for not obtaining proper authority for the absence in question. The Rule on this property has been addressed in Third Division Award 28483. The opinion expressed in the final paragraph of the Findings in Award 28483 apply equally to the situation in this case. The Claim is denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deva - Executive Secretary

Dated at Chicago, Illinois, this 29th day of January 1991.