

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(SouthRail Corporation

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

(1) The five (5) day suspension of Trackman W. P. Corbett for the alleged violation of Rule P was arbitrary, capricious, based on unproven charges and in violation of the Agreement.

(2) As a consequence of the afore-cited violation, the Claimant shall be compensated for all wage loss from 12:01 A.M., April 10, 1989 through 12:01 A.M., April 15, 1989."

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.

Subsequent to investigation of a charge that he was absent from duty without proper authority, the Claimant was found guilty and was assessed a five (5) day suspension.

The record before us shows that the Claimant was aware that he was scheduled for duty on March 18, 1989, yet he was absent on that date. He had previously sought to be excused from duty but had refused to state the reason for his request, and permission was denied.

We do not find the Carrier was arbitrary or capricious in its resolution of questions of credibility, and we find that there was ample evidence of record to sustain the findings.

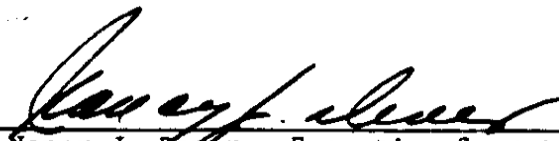
Although the Claimant's eleven (11) years of prior service was not totally devoid of difficulties, we feel that the assessment of five (5) days of suspension was excessive. We will approve a two (2) day suspension.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1991.