

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
(CSX Transportation, Inc. (formerly The Chesapeake and Ohio Railway Company)

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

(1) The Carrier violated the Agreement when it issued an Appendix C letter to Foreman Tom Weaver and suspended him from service for ten (10) days for alleged absence without permission on November 30, December 5 and 23, 1988 [System File C-TC-4620/12(89-333) CON].

(2) The Appendix C letter shall be cleared from Mr. Weaver's record and he shall be compensated for all straight time, overtime and holiday pay loss suffered as a result of the improper suspension. Mr. Weaver shall also be allowed appropriate credits for 1989 vacation qualifying purposes."

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 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.

The Agreement provides for certain progressive disciplinary action, without a formal investigation, for specified unauthorized absences.

The Claimant had received a written warning, and then a five day suspension. Based upon an assertion that he was absent without authority on November 30, December 5 and December 23, 1988, he was assessed a ten (10) day suspension.

The Organization concedes that December 23, 1988 was an unauthorized absence, but since the Agreement requires at least two absences during the applicable time frame, it objects to the discipline since it insists that the absences were beyond Claimant's control.

The Claimant asserts that he suffered a job related injury on November 14, 1988. That, plus prescribed pain medication altered his ability to work, and he states that he tried to call in to the Roadmaster, without success, and then contacted the Dispatcher.

The Carrier's documentation shows that the Roadmaster was available for a call at 6:00 A.M. each day, and that his home phone was available as a contact point. On the property, the Claimant was rather vague about his efforts to contact the Roadmaster, and his statements were conclusionary in nature, as contrasted to more detailed discussion in the Submission. We do know however that the Roadmaster was not notified of the absences by the Dispatcher until after the shift starting time, and there is no evidence to suggest that the Dispatcher was dilatory in his duties.

Regardless of whether the Claimant was too ill to report for duty, he certainly had a duty of notification to the Carrier, and we question that he has demonstrated by sufficient evidence a reasonable attempt to contact the Roadmaster in a timely manner.

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 25th day of June 1991.