

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 29803  
Docket No. MW-29950  
93-3-91-3-339

The Third Division consisted of the regular members and in addition Referee Robert G. Richter when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(  
(The Denver and Rio Grande Western Railroad  
(Company

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

- (1) The Agreement was violated on October 17, 1989 when the Carrier improperly terminated the seniority of B&B Helper J. G. Osborn (System File D-89-99/MW-06-90).
- (2) As a consequence of the aforesaid violation, the Claimant shall be reinstated and allowed compensation for all wage and benefits lost beginning on November 8, 1989 and continuing."

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 employe 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 Claimant was employed as a Bridge and Building (B&B) helper with approximately ten (10) years of seniority. Claimant did not show up for work on October 2, 1989. On October 17, 1989 the General Chairman was advised by letter that the Claimant was dropped from service per Rule 29(a) by being absent without permission over ten working days.

The applicable portion of Rule 29(a) is as follows:

"An investigation will not be necessary when an employe absents himself from his assignment, without permission, for ten working days or more. Such employee may be dropped at the end of ten working days and the General Chairman will be notified of such action and the reason therefore.

In cases where an employee has been unable to notify his supervisor that he would be unable to report for work because of personal illness or other justifiable cause, such employee may within thirty calendar days from the first day of his unauthorized absence make written request to the proper Carrier officer for a formal investigation."

Rule 29(a) gave Claimant the right to request a formal investigation within 30 days of his first day of absenteeism. The record is void of any such request. Also, there is no doubt the Claimant was absent from his assignment without permission for ten working days.

We have considered the Organization's contention that Rule 26 is controlling. However, Claimant did not have permission to be absent whether a leave of absence was or was not necessary. We have considered all evidence of record properly before this Board, and find the Agreement was not violated by the Carrier.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Catherine Loughrin  
Catherine Loughrin Interim Secretary to the Board

Dated at Chicago, Illinois, this 29th day of September 1993.