

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30014
Docket No. MW-30072
94-3-91-3-488

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
(
(CSX Transportation, Inc. (former Seaboard
(System Railroad)

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

- (1) The discipline assessed Trackman L. Moore on July 6, 1990, sixty (60) days' actual suspension from service, for alleged violation of Rule 17(b) was excessive, unjust and in violation of the Agreement [System File 90-105/12(90-766) SSY].
- (2) As a consequence of the violations referenced in Part (1) above, the Claimant's record shall be cleared of the charge and all matters related thereto and he shall be compensated for all wage loss suffered as a result of the Carrier's actions."

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.

Claimant was employed as a Trackman at Wilmington, North Carolina. On April 16, 1990, he requested and was granted vacation time beginning April 17, extending through April 20, 1990. On April 20, Claimant approached his Roadmaster and requested additional time off because his sister, who lived in New York, had been in an automobile accident and was in a coma. The Roadmaster agreed

to permit Claimant to be off duty for two additional weeks or until May 7, 1990, to attend to his personal situation. At the end of the two week period, Claimant neither returned to work nor made any attempt to contact the Roadmaster relative to his continued absence.

Subsequently, by letter dated June 8, 1990, Claimant was notified to attend an Investigation on June 15, 1990, on a charge of violation of Rule 17(b) of the Agreement. Rule 17(b) reads as follows:

"An employee desiring to be absent from service must obtain permission from his foreman or the proper officer. In case an employee is unavoidably kept from work, he must be able to furnish proof of his inability to notify his foreman or proper officer."

The scheduled Investigation was postponed by agreement of the parties and was eventually held on June 21, 1990, at which time Claimant was present, represented and testified on his own behalf. Following completion of the Investigation, Claimant was notified by letter dated July 6, 1990, that he had been found at fault for being absent without permission and was disciplined by suspension of sixty days to begin on July 9, and end on September 6, 1990. He was instructed to return to service on September 7, 1990. After the issuance of the notice of discipline, Claimant, by letter dated July 18, 1990, voluntarily resigned his employment relationship with the Carrier.

This Board reviewed the transcript of the June 21 Investigation and is of the opinion that there is more than substantial evidence therein to support the finding of guilt. Claimant's prior record, which was introduced at the Investigation, when considered with the instant finding of guilt, clearly supports the assessment of a sixty day suspension. Claimant acknowledged that he made no attempt to contact the Roadmaster to explain his failure to return to work at the end of the two week leave period or to attempt to receive an extension of the leave period. The sixty day suspension was extremely lenient in light of the testimony contained in the transcript. This Board will not alter the decision of the Carrier.

A W A R D

Claim denied.

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: *Catherine Loughrin*
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 21st day of January 1994.