

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31961
Docket No. SG-32326
97-3-95-3-164**

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Soo Line Railroad Company

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

Claim on behalf of R. E. Carlson to be made whole for all time and benefits lost in connection with his suspension from service, and for removal of this discipline from his personal record, account Carrier violated the current Signalmen's Agreement, particularly Rule 32, when it failed to provide the Claimant with a fair and impartial investigation and imposed harsh and excessive discipline following an investigation conducted on September 7, 1993. Carrier's File No. 5-00061-002. BRS File Case No. 9557-SOO."

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 employee 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 were given due notice of hearing thereon.

This claim arose when the Claimant was found guilty of excessive absenteeism and assessed a 30 day suspension. The Organization filed a claim appealing the discipline contending that the Claimant had had car trouble on the dates of August 23 and 25, 1993.

The Carrier denied the claim arguing that the Claimant did not present any evidence during the Investigation which indicated that he had made other attempts to get to work. Furthermore, the Claimant's record indicated that he had been previously disciplined for excessive absenteeism and disqualified as an ARASA Technician until he proved to the Carrier that he could change his ways.

The parties being unable to resolve the issues at hand, this matter came before this Board.

This Board has reviewed the procedural arguments raised by the Organization and we find them to be without merit.

With respect to the substantive question, the Board reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of being absent without proper authority and continued excessive absenteeism during the week of August 23, 1993. The record is clear that the Claimant called on August 23 and stated that he was having car trouble and could not come to work that day. He subsequently stated that he would come to work the following day. He eventually let the Carrier know that he would not come in for the entire week. Being absent for the one week with a poor excuse constituted being absent without proper authority and continued excessive absenteeism.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary, or capricious.

Claimant's record indicates that he began his employment with the Carrier in September 1988. Since that time, he has been charged with excessive absenteeism and failure to protect his assignment on several occasions. The Claimant was disqualified from a supervisory position for his failure to protect his assignment. Given that disciplinary history and the seriousness of the offense in this case, this Board cannot find

that the Carrier acted unreasonably, arbitrarily, or capriciously when it issued a 30 day suspension to the Claimant. Therefore, the claim will be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 19th day of March 1997.