

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43042
Docket No. MW-43889
18-3-NRAB-00003-160708**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference**

PARTIES TO DISPUTE: (

(Kansas City Southern Railway Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The discipline (dismissal) imposed upon Mr. M. Snider by letter dated August 19, 2015 for alleged violation of Kansas City Southern Railway Company’s General Code of Operating Rules 1.15 - Duty - Reporting or Absence and GCOR Rule 1.6 - Conduct in connection with alleged absence without authority beginning June 23, 2015 was without just and sufficient cause, arbitrary and unwarranted and in violation of the Agreement (System File KCS700SN15D/ K0415-6409 KCS).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant M. Snider shall have all charges dropped and references to this incidence stricken from his record and he must be returned to service with all rights unimpaired and compensated for any lost time or expense incurred as a result of the Carrier’s improper discipline.”**

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.

After Investigation held August 11, 2015 and by letter dated August 19, 2015, the Claimant – an employee in the Carrier’s service for five years – was dismissed for being absent without authority.

At the time this dispute arose, the Claimant was assigned as a Machine Operator. The relevant work days for the Claimant’s assignment were June 23 through June 30, 2015.

At approximately 0830 on June 23, 2015 (approximately one to one and one-half hours into his shift), the Claimant could not be located at his assignment on Gang 506 and remained absent from his assignment through June 30, 2015 without authority. Tr. 7, 24-27. The Claimant testified that he left his assignment on June 23, 2015 and “I went home to get myself together.” Tr. 30-31. The Claimant also testified that he took that action and absented himself from his assignment from June 23 through June 30, 2015 without permission. Tr. 31.

Substantial evidence shows that the Claimant engaged in conduct in violation of Rule 1.15 (Duty-Reporting or Absence) when he absented himself from work without authority. In relevant part, Rule 1.15 specifies that “[e]mployees must report for duty at the designated time and place ... spend their time on duty working ... [and] must not leave their assignment.” The Claimant violated that rule.

The record shows that the Claimant had a prior 30-day suspension (five days actual; 25 days record) for failing to protect his assignment in May 2015. Under the circumstances, dismissal was progressive and not arbitrary.

AWARD

Claim denied.

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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 2nd day of May 2018.