

PUBLIC LAW BOARD NO. 2142

Award No. 3

Docket No. MW-1115

Case No. 11

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Illinois Central Gulf Railroad Company

Statement

of Claim: 1. Carrier improperly and unfairly dismissed Merrill F. Boston as of August 25, 1976, alleging him to be in violation of Rule 39 of the effective Agreement.

2. Claimant Merrill F. Boston be restored to Carrier's service and be paid for each work day since January 8, 1977.

Findings: The Board, after hearing upon the whole record and evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 23, 1978, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant Trackman last worked on June 17, 1976. He went on a medical leave of absence from June 17, 1976 which expired July 12, 1976. Carrier was in receipt of a medical statement from a Dr. Todd, effective July 12, 1977, releasing Claimant to work. Claimant neither returned to work nor requested an extension of his leave of absence.

On July 19, 1976, Claimant came to the office with a medical note from a second Doctor, a Doctor Mitler, stating that he had been treated that date for swelling and discomfort of left ankle and knee and that he was to be seen again July 21, 1976. Again, Claimant never reported back to work

or requested a leave of absence. Claimant's service record was closed August 25, 1976. September 8, 1976, two weeks after Claimant's service record was officially closed, Claimant came into the office with a medical release from a third Doctor. Said release stated that Claimant had been under his care from July 19, 1976 through July 30, 1976 and that he was having problems with his left ankle and knee and that he was discharged from his care July 30, 1976. At no time, during Claimant's absence since July 12, 1976, had Claimant advised his foreman or supervisor that he was absent because of illness.

Rule 39 - "Unauthorized Absence" provides:

"An employee who is absent from his assigned position for seven (7) consecutive work days, will be considered as having abandoned his position and resigned from the service."

The Board finds that Claimant by his failure to request a leave of absence had thereby abandoned his position and that he had clearly violated Rule 39. The phrase

"unless such absence from service is due to physical incapacity as evidenced by a released signed by a medical doctor."

had been deleted from Rule 39, April 1, 1976. However, even if it had not been so deleted, Claimant's failure to have requested a leave of absence or to have taken some affirmative action to protect himself would have, as here, resulted in the Board's reaching the same conclusion. Further, there was no denial of the assertion made that Claimant had been seen painting signs in Onarga and Gilman, Illinois.

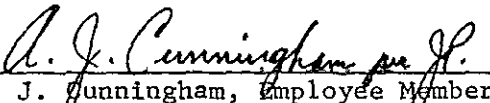
One fundamental rule governing the conduct of an employee is that he must report for work at the time and place designated by his employer.

Inherent in such rule is the corollary obligation to request permission to be absent when the employee is not able to report to work or to report on time. Such rule of required employee conduct has been recognized as being most vital to effective railroad operation and that unauthorized employee absence poses a serious threat to safe and effective railroad operation and merits stringent disciplinary action. For example, in Second Division Award 6740 (Shapiro), involving this Carrier, it was held:


"This Board has repeatedly pointed up the detrimental effect of absenteeism upon the operations of the railroads (Award 1814-Carter, Award 5049-Johnson). The confusion and disruption created when an employee absents himself from work without due notice to supervision is harmful not only to the employer but to other employees as well. We therefore cannot fault management when it takes effective measures to deter excessive absenteeism and tardiness. The Petitioner Organization recognized this when it negotiated agreements with carriers with rules such as Rule 39 of the Controlling Agreement between parties hereto...."

Claimant's present status is the direct result of his own inaction. There is no valid reason in this record to cause change in such status. This claim will be denied.

Award: Claim denied.


A. J. Cunningham, Employee Member


M. J. Hagen, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Falmouth, Massachusetts, August 28, 1978.