

Award No. 7  
Case No. 7

Public Law Board No. 2203

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employes  
and  
Consolidated Rail Corporation

STATEMENT  
OF  
CLAIM:

"Dismissal case of R. J. Lillard, Machine Operator,  
TK 311, for absenteeism on June 8, 1977."

FINDINGS:

On August 30, 1976, claimant was warned in writing that further unauthorized absences would not be tolerated and would subject him to discipline; he had been absent three times without permission in July 1976, although he had only been in Carrier's employ since June 14, 1976. When he was again absent without permission six days in September and one in October 1976, he was assessed a six-day suspension.

On March 30 and April 14 and 18, 1977, claimant was again absent without authorization. He was dismissed from Carrier's service after a hearing had been held on due notice to him. Claimant did not attend the hearing nor notify his representative that it would be held.

There is no question but that Carrier erred when it failed to notify the Organization of the hearing. This omission alone would constitute a basis for setting aside the disciplinary action in an appropriate situation. However, in this case, where the record clearly shows a pattern of unauthorized absences within a very short period of employment as well as a failure to appear at the scheduled hearing although the evidence indicates that claimant did receive notice thereof, we are not persuaded that Carrier's decision should be reversed. Claimant was administered discipline on a reasonably progressive basis and there is no indication that any request was made for a new hearing or to present additional evidence. The claim will be denied on the specific facts as this case and not as a precedent.

AWARD: Claim denied.

Adopted at Philadelphia, Pa., May 17, 1979.

  
Harold M. Weston, Chairman

  
Carrier Member

  
Employee Member