

Award No. 40
Case No. 44

Public Law Board No. 3794

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
CSX Transportation, Inc.

STATEMENT
OF
CLAIM:

Trackman L. L. Lee's dismissal is without just cause and he shall be reinstated with seniority and all other rights unimpaired and compensation for all wage loss.

FINDINGS:

There is some indication that claimant sustained on-duty injury to his left leg on July 2, 1985. He was subsequently, on September 9, 1985, medically released for full duty. When he had not reported for work by September 24, 1985, Roadmaster Simmons instructed him by letter to furnish Dr. Mead, Carrier's Chief Medical Officer, medical reports covering the September 9 to 24, 1985 period. The letter was sent by Certified Mail-Return Return Requested to his registered address.

Claimant failed to comply with Mr. Simmon's letter of September 24 and he was charged with insubordination and absenteeism. He did not appear at the hearing held in this matter and was thereafter dismissed.

We are disposed to give some latitude to an employee who has sustained an on-the-job injury. However, it is every injured employee's responsibility to keep his employer apprised of his situation and the reasons for his absence after being medically cleared to return to work. At the very least, claimant owed Carrier that courtesy and, more importantly, that obligation. A job is serious business and it was not his place in this setting to play games with his employer.

The Simmons letter of September 24 was unambiguous and mailed to claimant's regular address where it was signed for by his mother. With a leg injury, he reasonably could have been expected to communicate with Carrier and no evidence has been introduced to show that due to some exceptional circumstances or physical handicap claimant could not meet minimum obligations of communication.


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If claimant had some good reason for not reporting to duty and presenting all the medical information ordered by Mr. Simmons, it was his obligation to bring those reasons to Carrier's attention in timely fashion and to cooperate with his employer.

There is no basis on this record to reverse Carrier's decision.

AWARD: Claim denied.

Adopted at Jacksonville, Florida, March 17, 1987.


HAROLD M. WESTON, Chairman


Carrier Member


Employee Member