

Public Law Board No. 4161

Parties to Dispute

Brotherhood of Maintenance of)	
Way Employees)	Case No. 39
)	
vs)	Award No. 28
)	
Burlington Northern Railroad)	

STATEMENT OF CLAIM

1. The five (5) days of suspension imposed upon Sectionman G. L. Westberg for alleged violation of Rule 502 was unwarranted and in violation of the Agreement.
2. The Claimant's record shall be cleared of the charge leveled against him and he shall be compensated for all wage loss suffered, including overtime, holiday pay and any expenses which may be applicable.

FINDINGS

The Claimant was advised to attend an investigation to determine facts and place responsibility, if any, in connection with his alleged absence without authority on five different days in the latter part of 1983. After the investigation was held the Claimant was advised that he had been found guilty as charged and he was given as suspension as outlined in the above Statement of Claim. This discipline was appealed by the Organization in the normal manner on property. Absent resolution of the dispute concerning the propriety of the discipline this case was docketed before this Public Law Board for final adjudication.

The Rule at bar is the following:

Public Law Board No. 4161 (Award No. 28; Case No. 39)


Rule 502

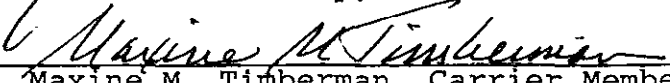
Employees must report for duty at the designated time and place. They must be alert, attentive and devote themselves exclusively to the Company's service while on duty. They must not absent themselves from duty, exchange duties with or substitute others in their place without proper authority.

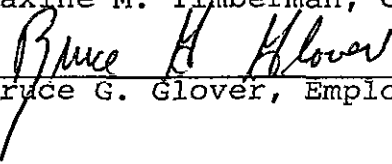
The record shows that the Claimant testified first of all that he attempted unsuccessfully to contact Carrier's supervision with respect to his days' off. The Board must note, however, that the Rule in question has requirements that go beyond such attempts. On the basis of these requirements the Board cannot reasonably accept reasoning provided by the Claimant as sufficient grounds to sustain his claim as this relates to attempts at notification of Carrier's officers. Secondly, the Claimant argues that his absence at work on the days in question was due to defects in the public transportation system. Albeit this reasoning applies only to "troubles" which the Claimant had "with bus connections", he would not venture the conclusion, however, that this was the case on all the days in question but that such impediments to his being at work applied only "on a couple of (the) days, (he) guess(ed)". The claim also cannot be sustained on basis of this latter reason proffered by the Claimant. On the record as a whole the Board must conclude that the claim be denied.

AWARD

The claim is denied.


Edward L. Suntrup, Neutral Member


Maxine M. Timberman, Carrier Member


Bruce G. Glover, Employee Member

Date: _____