

PUBLIC LAW BOARD NO. 1760

Award No. 27

Docket No. MW-TOL-78-1

Parties Brotherhood of Maintenance of Way Employees
to and

Dispute Norfolk and Western Railway Company

Statement

of Claim: Carrier violated the effective Agreement when William H. Barwiler was unjustly dismissed.

Claimant William H. Barwiler shall be reinstated to Carrier's service as provided in Rule 20 of the current Agreement.

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 February 2, 1976, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant, a Section laborer, was employed at Toledo, Ohio for some two and one half years. He was dismissed from service effective March 20, 1978 for:

"Your continuous absenteeism without authorization from your foreman or supervisor has resulted in your losing a considerable amount of time, and this practice can no longer be tolerated.

Since you have not worked since May 4, 1978, the railway company now considers you as having resigned from its service and have closed out your file."

The Board finds that here the Carrier's position is supported by the weight of the evidence. The record reflects that here Claimant knew that he was going to leave the state. Yet, as on other occasions, he neglected to notify his supervisor of his absence. Claimant agreed that he was aware that he had an obligation to notify his supervisor, he admitted that even after he had arrived back and had received Carrier's letter that he made no effort to contact his supervisor. Claimant also

attested that there was not any reason that he could not have notified his supervisor that he would not be back to work.


Rule 12A provides for leaves when the requirements of the service so permit upon the employee's request.

Under the circumstances, the Board concludes that Claimant was given a fair and impartial hearing, that the transcript supports the charge and that the discipline assessed in the circumstances is found to be reasonable. This claim will be denied.

Award: Claim denied.


M. W. Christie, Employee Member


G. C. Edwards, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member