

PUBLIC LAW BOARD NO. 1760

Award No. 92

Case No. 92
File MW-DEC-86-48

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Norfolk and Western Railway Company

Statement

of Claim: Claim on behalf of M. A. Mann requesting that he be reinstated and paid for time lost as a result of his dismissal for excessive absenteeism.

Findings: The Board has jurisdiction of this case by reason of the parties Agreement establishing this Board.

Claimant, a Laborer on the R-3 Rail Gang which is responsible for fitting and replacing rail on the Western Region of the Norfolk and Western Railroad, was absent for his assignment almost 30% of the work time between April 4, 1986 and October 29, 1986. His absences were April 4, 18, May 8, June 5, 9, 10, 24, 25, 26, July 1, 2, 28, 29, 30, 31, August 11, 12, 13, 14, 18, 19, 20, 21, August 20 reflects absence for family problems. Also absent on October 13, 14, 15, with 16 showing absent for illness, October 20, 21, 22, 23, 24, 27 and 28, 1986.

As a result of his absence in October and excessive absenteeism since April 4, 1986, the Claimant was charged to a formal investigation for being absent for 33 days out of a possible 120 days. As a result of the investigation the Trainmaster concluded therefrom that Claimant was guilty of the charge. He was dismissed from service as discipline therefor.

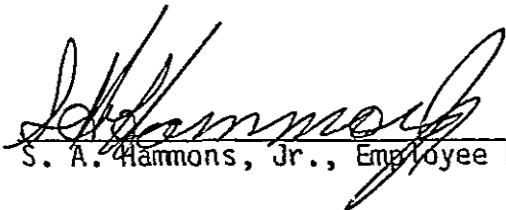
The Second Division of the NRAB in its Award 10400, in denying the claim therein, on an affiliated property, held:

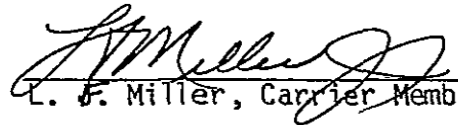
"...it should be emphasized that Rule 30 (a), cited by the Organization, has little relevance here because the issue is Claimant's absenteeism and not whether he notified the Carrier of his absence. Prior awards of this Board have often set forth the principle that notification of absence may not be used in defense of an employee's excessive absenteeism. (For example, see Second Division Award 7748, 7803, 8876). Thus, Claimant's excuses some of which were not even offered until the time of the investigation, do not justify his failure to report for work regularly random time. It is beyond Cavil that the obligation is on the employee to protect the Carrier's service on the day he is assigned to work, and failure to do so is sufficient grounds

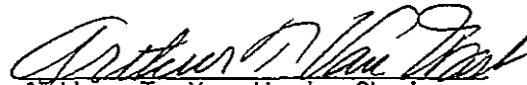
for discipline including dismissal. (See this division's award 6701, 8216, 7348.)"

In the circumstances, this claim will also be similarly denied.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


L. F. Miller, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued August 14, 1989.