

Award No. 13
Case No. 13

Public Law Board No. 2203

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

Disciplinary case of Charles P. Norris, Trackman,
Urbana, Ohio, who was dismissed on September 19, 1977.

FINDINGS:

Under the progressive discipline policy provided for in the January 26, 1973 Agreement for unauthorized absenteeism, claimant received a written warning on March 8, 1977 because of an unauthorized absence on that date. He was suspended for five days because of another absence without permission on July 14, 1977. When he was absent a third time without authorization on July 26, 1977, he received a 45-day suspension. Finally, he was dismissed as a result of unauthorized absences on August 29, 30 and 31 as well as September 1 and 2, 1977.

The Agreement of January 26, 1973, provides that the progressive discipline policy "shall be applied uniformly." That does not mean that Carrier must impose discipline for exactly the same number of absences in every case. It rightly should have considerable latitude in applying the Agreement so long as its actions are reasonable and are based on acceptable explanations.

In Awards 3 and 7, we considered other instances where employees were dismissed for unauthorized absences. In each instance, they were allowed three episodes, each ^{of} several absences, before dismissal. In the present case, unlike those situations, each episode is limited to just one absence; while that might not be improper under same circumstances, Carrier has offered no persuasive explanation for restricting claimant to that extent. It has not, for example, shown that claimant's single absence was as serious as a group of several absences in the other situations.

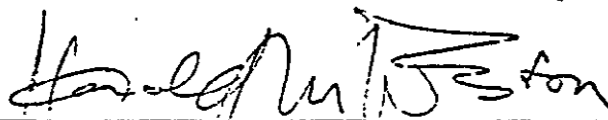
We are ^{not} satisfied, therefore, from an analysis of these records that Carrier followed the pattern of the two other cases (Nos. 3 and 7) in administering discipline here. In the absence of some reasonable explanation for the difference, claimant's dismissal was premature.

We will direct Carrier to reinstate claimant with seniority rights unimpaired but without back pay.

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AWARD: Claimant reinstated without back pay.

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



Harold M. Weston, Chairman



Carrier Member



Employee Member