

Award No. 3
Case No. 3

Public Law Board No. 2203

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance and Way Employees
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

"Discipline case of James Anthony, Machine Operator,
Chesapeake Division. Dismissal for unauthorized
absenteeism."

FINDINGS:

Like many other employers, Carrier has experienced problems with absenteeism without permission or legitimate cause. It has an agreement with the Organization, dated January 26, 1973, that provides progressive discipline for employees who have had unauthorized absences. Under the terms of that agreement, such employees are given a written warning for the first offense, discipline of up to 10 days suspension for the second and dismissal for the third offense within a twelve-month period. The agreement stipulates that it will be applied uniformly to employees.

The agreed upon policy appears to be reasonable. As heretofore indicated, it applies only to unauthorized absences. It should not be too difficult for employees to avoid discipline under its terms.

Claimant, a machine operator with about three years service, was found to have been absent a number of times during 1976. In the first episode, he was warned in writing on April 21, 1976, with respect to unauthorized absences on March 1 and 2 as well as April 8, 1976, that further such absences would subject him to discipline. He was absent, again without permission, on August 19, September 24, 28 and 29, October 11 and November 2, 1976 and received a five-day suspension on that basis. When he was again absent without authorization on December 20, 1976 and January 4 and 5, 1977, claimant was dismissed.

Claimant has not advanced satisfactory reasons for his absences and Carrier appears to have duly observed the conditions of the agreed upon policy regarding unauthorized absences. The fact that it permitted claimant to have a few absences during each of the three episodes mentioned above and did not suspend or dismiss claimant when he had been absent on previous occasions in 1974 and 1975 was not an unreasonable exercise of managerial discretion. That leniency certainly did not prejudice claimant's case or work to his disadvantage. There is no evidence of any appreciable inconsistency in applying the policy.

We do not subscribe to Petitioner's theory that dismissal is unwarranted since claimant has improved his attendance record. Claimant's unauthorized absences in 1976 were sufficient in number to provide a valid basis for the discipline in question; that they were not as numerous as the 1974-5 absences and that Carrier gave claimant an opportunity to improve his record is not a ground for reversing Carrier's decision.

AWARD: Claim denied.

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


Harold M. Weston, Chairman


Carrier Member


Employee Member