

PUBLIC LAW BOARD NO. 2960

AWARD NO. 71
CASE NO. 67

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Chicago & North Western Transportation Company

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) The twenty (20) day suspension* assessed Crane Operator D. V. Chevalier for allegedly being absent without authority on June 12, 1981 was without just and sufficient cause and on the basis of an unproven charge. (Organization File 4D-2001; Carrier File D-11-3-358).
- (2) Crane Operator D. V. Chevalier shall be compensated for all wage loss suffered and the disciplinary notice removed from his record.

*The Claimant was also required to serve a deferred fifteen (15) day suspension because of this disciplinary action.

OPINION OF THE BOARD:

This Board, upon the whole record and all of the evidence, finds and holds that the Employee and the Carrier in this dispute are respectively Employee and Carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute involved herein.

On June 16, 1981, the Claimant was directed to attend an investigation on the following charge:

"Charge: Your responsibility in connection with absenting yourself from your work assignment without authority on June 12, 1981."

Subsequent to the investigation the Claimant was assessed the discipline now on appeal before the Board.

The basic facts are not disputed. After the end of the work day (6:30 - 7:00 p.m.) on June 11, 1981, the Claimant appeared at the 4-R office and advised the time keeper that he had not had a chance to talk to his foreman, Mr. Henke, during the day, in order to advise him that he would be absent the following day due to a dentist appointment. The clerk left a note for Henke. The Claimant submitted a bill for dental work dated June 12, 1981. Henke testified he talked to the Claimant several times (3 or 4) on the 11th and the Claimant had not mentioned the appointment.

This case involves the application of Rule 14 of General Rules. It states:

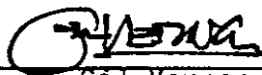
"Employees must report for duty at the designated time and place. They must be alert, attentive and devote themselves exclusively to the Company's service while on duty. They must not absent themselves from duty, exchange duties with or substitute others in their place, without proper authority."

It has been stated before that single notification of absence to a clerk or non-supervisory employe is not sufficient to establish that the employe's absence is authorized. In this case the Claimant had ample opportunity to seek permission to be absent and to give notice of his need to go to the dentist and failed to give notice until very late the day before. He also compounded his error by stating to the clerk that he did not have a chance to talk to Henke when in fact he did. While the legitimacy of his absence has some mitigating value, the inappropriate

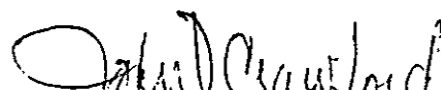
nature of his conduct doesn't flow from his absence as much as it does his failure to give reasonable advance notice of his absence. Failure to do so most often puts the employer at a disadvantage in the accomplishment of work, as was the case with Mr. Chevalier's absence, according to Henke. The Carrier has the right to expect advance notice of an intended absence. When it is possible to give reasonable advance notice and the employe fails to do so, discipline is warranted, especially where such failure burdens the Carrier's operation.

AWARD:

The Claim is denied.


G. Vernon, Chairman


H. G. Harper, Employe Member


J. D. Crawford, Carrier Member

Dated: October 22, 1964