

PUBLIC LAW BOARD NO 3460

Award No. 62

Case No. 62

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Burlington Northern Railway Company

STATEMENT
OF CLAIM

- "1. The dismissal of track laborer R.B. Thomson for alleged violation of Rule 702 was improper, excessive and unwarranted.
2. The claimant shall be reinstated with seniority and all other rights unimpaired, the record shall be cleared of the charge leveled against him, and he shall be compensated for all wage loss suffered."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant was absent from his assignment on May 5, 1981, without permission or notification to his foreman. The record revealed that the reason for his absence was that he had overslept. Subsequently he received a notice of investigation charging him with an improper absence on May 5, and following an investigation of that charge, he was found guilty and dismissed. Carrier

points out that claimant was a relatively short term employee and within the five year period of his employment, had had a number of disciplinary actions, specifically he had had three previous incidents of unauthorized absences, one just 30 days prior to the incident herein, which in each case resulted in discipline. Carrier believes this was a repeat offender and there was no reason to expect that his conduct would improve and had no recourse but to discharge him under the circumstances.

The Petitioner insists first that the claimant's record was not part of the evidence presented at the investigation and should have no bearing on the nature of the discipline involved. Furthermore, Petitioner urges that the discipline of dismissal was too severe under the circumstances.

As this Board has stated in the past, attendance at one's position is mandatory in terms of the employment relationship. An employee has an obligation to report to work unless there are unusual circumstances which are documented and there is an unavoidable reason for his absence. In such instances, however, at least a telephone call to his superior is a requisite. In this instance even though claimant overslept he did not even bother to call in that day and indicate that he would be late. He simply did not appear. The Petitioner's argument that the past record was not relevant and should not be considered in this particular

situation is incorrect. It is well established that prior discipline may be considered in the determination of the quantum of discipline to be invoked. For that purpose, it is always permissible for Carrier to relate to that record. The guilt in itself was established in this case without regard to the nature of the discipline to be imposed.

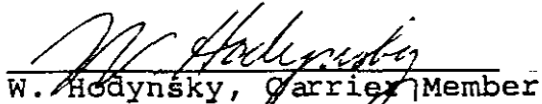
The Board recognizes the seriousness of absenteeism to this employer as well as to others and an employer must have regular attendance in order to function properly. In this instance, the Petitioner's record as well as particular infraction did not indicate that he could comply with this basic requirement. The decision to discharge him for the offense was neither improper, harsh nor arbitrary. It must be affirmed.

AWARD

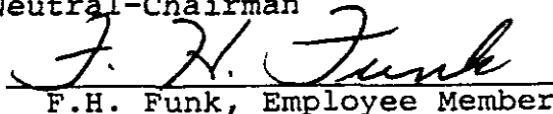
Claim denied.



I.M. Lieberman, Neutral-Chairman



W. Hodynsky, Carrier Member



F.H. Funk, Employee Member

St. Paul, Minnesota

December 12, 1986