

PUBLIC LAW BOARD NUMBER 3566

Award Number: 13

Case Number: 13

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

And

BURLINGTON NORTHERN RAILROAD COMPANY

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

(1) The three (3) days of suspension imposed upon Trackman R.M. Edmonds for alleged violation of Additional General Rule 502 on November 11, 1982 was arbitrary, capricious, unwarranted and without just and reasonable cause.

(2) The Claimant's record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered.

FINDINGS:

In November of 1982, Claimant was assigned to Tie Gang T-2-11 working near Mountain Grove, Missouri. On November 11, 1982, Claimant did not report for work as assigned. Claimant reported for work on the following day and was assessed a three-day actual suspension by Assistant Roadmaster S. Gunn.

At the Organization's request, a hearing was held in order to investigate the charge against Claimant. On the basis of the evidence adduced during the investigation, Carrier determined that Claimant had violated General Rule 502

of the Rules of the Maintenance of Way Department, and that the discipline assessed Claimant was justified. The Organization filed a claim protesting Carrier's actions and requesting that Claimant be paid for all time lost and that the charge be stricken from his service record. The claim was denied at all levels of appeal on the property, and the Organization then submitted the matter to this Board for resolution.

The issue to be decided in this dispute is whether Claimant was suspended for just and reasonable cause; and if not, what should the remedy be.

Carrier's General Rule 502 reads in part as follows:

Employees must report for duty at the designated time and place...They must not absent themselves from duty, exchange duties with or substitute others in their place without proper authority.

At the hearing, Claimant admitted that he did not report for work on Tie Gang T-2-11 on November 11, 1982. Claimant testified that he attempted to gain permission to absent himself on that date from two places, the Springfield office and Mountain Grove. Claimant stated that November 11 was a holiday for the Springfield office, and that the dispatcher at Mountain Grove stated that he would contact Assistant Roadmaster Gunn. Gunn testified that on the day in question he was not contacted by anyone from Mountain Grove. In addition, there is no evidence that Claimant made any other attempt to secure permission to absent himself from duty. It must therefore be concluded that Claimant absented himself from duty without obtaining permission to do so, in violation of Carrier's General Rule 502.

It should be noted that the fact Claimant visited a doctor on the day in question does not constitute a mitigating circumstance. There is no evidence that Claimant was seriously ill or that he had suffered an injury requiring emergency treatment.

Claimant's condition did not, therefore, prevent him from obtaining permission for his absence as required by Rule 502. In view of Claimant's service record, it cannot be held that the three-day suspension was unduly harsh or excessive under all the circumstances. Accordingly, the claim is hereby denied.

AWARD

Claim denied.


Neutral Member


Carrier Member


Organization Member

Date:

February 1, 1985