

PUBLIC LAW BOARD NO. 4950

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NEW JERSEY TRANSIT RAIL OPERATIONS, INC. :  
"Carrier" : Case No. 18  
vs. : Case No. 19  
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES :  
"Organization" : Award No. 10  
Award No. 11  
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STATEMENT OF CASES

L. Gordon - Ten (10) days suspension deferred six (6) months.

L. Gordon - Fifteen (15) days suspension deferred nine (9) months.

OPINION OF THE BOARD

In both cases, Claimant was charged with being absent without permission and excessive absenteeism. More specifically, in case No. 18, Carrier alleged that on May 1, 2, 9 and 10, 1989, Claimant failed to cover his assignment. In case No. 19, Carrier alleged that Claimant also failed to cover his assignment on June 5 and 8, 1989. In both instances, Carrier asserts that Claimant had previously been sent first and second warning notices for excessive absenteeism.

Carrier maintains that Claimant is guilty of the offenses as charged and deserving of the discipline assessed. The Organization raises several defenses on behalf of Claimant, including that the discipline was too harsh, Claimant was under a doctor's care, and that Claimant submitted medical documentation

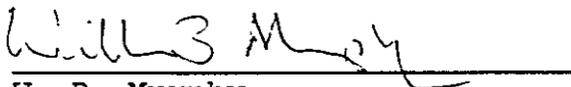
for the dates of June 5 and 8 proving the reason for his absence.

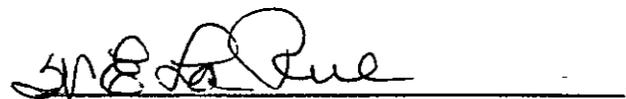
The Board has determined that both claims must be denied.

The record evidence establishes that, with the exception of June 8, 1989, Claimant was absent without permission on the dates in question. While on June 8 Claimant was granted an authorized leave of absence, and Claimant must therefore be exonerated for his absence on that day, on all other dates Claimant did not receive permission to remove himself from his obligation to cover his assignment. Moreover, careful examination of Claimant's record establishes that he had numerous instances of absenteeism, and had received prior progressive discipline for same. In these circumstances, the Board cannot conclude that Carrier exceeded its authority in either case in assessing the stated discipline against Claimant. Accordingly, the claims must be denied.

AWARD

Claims denied.

  
 W. B. Murphy  
 Carrier Member

  
 W. E. LaRue  
 Organization Member

  
 S. E. Buchheit  
 Neutral Member