

PUBLIC LAW BOARD NO. 4950

NEW JERSEY TRANSIT RAIL OPERATIONS, INC. :
"Carrier" : Case No. 30
: Case No. 31
vs. :
:
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES : Award No. 17
"Organization" : Award No. 18
:
:

STATEMENT OF CASES

C. A. Rainey - Thirty (30) days Suspension to be deferred one (1) year.

C. Rainey - Thirty (30) days actual suspension to activate Thirty (30) days suspension previously deferred. Total - sixty (60) days actual suspension.

OPINION OF THE BOARD

In both cases, Claimant was charged with being absent without permission and excessive absenteeism after having been sent first and second warning notices for excessive absenteeism. More specifically, in case No. 30, Claimant was charged with being absent without permission on September 7 and 14, 1988, and in case No. 31, Claimant was charged with being absent without permission on November 9, 10 and 11, 1988.

Carrier maintains that in both cases Claimant is guilty of the offenses charged and deserving of the discipline assessed. The Organization raises a number of defenses on behalf of Claimant, including that the absences were due to circumstances beyond his control, and that in case No. 31 Claimant was disabled

on the dates in question.


The Board has determined that both claims must be denied.


The record evidence clearly establishes that Claimant was absent from his position on the dates alleged. The Board has further concluded that there does indeed exist reason to question the validity of the doctor's note presented by Claimant concerning the absences on November 9, 10 and 11, 1988. Moreover, Claimant's entire work record, which includes numerous instances of absences and discipline assessed as a result thereof, justifies the discipline imposed in both cases. Accordingly, the claims must be denied.

AWARD

Claims denied.


W. B. Murphy
Carrier Member


W. E. LaRue
Organization Member


S. E. Buchheit
Neutral Member