

PUBLIC LAW BOARD NO. 6102

Award No. 3
Case No. 3

PARTIES TO DISPUTE: Brotherhood of Maintenance of Way Employees
and
Burlington Northern Santa Fe Railway
(Former St Louis - San Francisco Railway Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

1. Mr. M. A. Brown was unjustly dismissed from service on October 19, 1995, for his alleged responsibility in conjunction with his being absent without authority from August 11, 1995 through September 8, 1995, and for his alleged failure to apply for and receive a leave of absence.
2. As a consequence of the Carrier's violation referred to above, Claimant should be reinstated to service, paid for all time lost, and the discipline shall be removed from his record." [Carrier's File MWC 96-01-18AE. Organization's File B-2593-4].

FINDINGS AND OPINION:

Upon the whole record and all the evidence, the Board finds that the Carrier and Employees ("Parties") herein are respectively carrier and employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by agreement and has jurisdiction over the dispute herein.

On September 8, 1995, a Certified Mail letter was sent Claimant Mario A. Brown by Carrier's Manager of Gangs R. C. Wagoner, with copies furnished the Organization's General Chairman and Vice General Chairman. This letter charged the Claimant with alleged absence from duty, having been continuously absent without authority from August 11, 1995, through September 8, 1995; also for failure to request a leave of absence as required under Rule 15, Part C, of the Agreement between the Parties.

An investigation on these charges was set for 10:00 a.m. on Thursday, September 21, 1995. The record includes a copy of a receipt for a Certified Mail article bearing a number corresponding to that shown on Mr. Wagoner's September 8 letter, signed "Mario Brown," and date of delivery, September 12, 1995.

The September 21 investigation began at 15 minutes past the time set to commence. At that time, Claimant Brown had not yet arrived. Roadmaster R. R. McQueary, the Claimant's supervisor, stated he had not heard from the Claimant since August 11. The Organization's Vice General Chairman was present to represent the Claimant, and stated he

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attend the investigation and there offer his defenses or, in the alternative, to seek, through his union representative, a postponement of his investigation until he could be present.

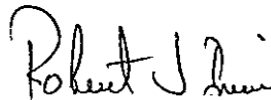
The Claimant effectively abandoned his employment by his continuous absence without making any attempt at communication. Every worker is important to the efficient operation of this or any other industry; else they would not have been employed. Chronic, unauthorized absence compromises production goals, inflicts hardship on supervisors and other employees who must take up the slack, and even places safety in jeopardy when working short-handed.

This is not to say there could never be a circumstance in which sudden severe illness or injury might preclude advance notice of absence. This case does not present such a circumstance.

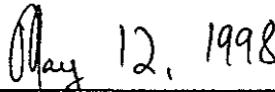
Dismissal from service is not excessive in view of the Claimant's employment history, and the principle of progressive discipline.

AWARD

Claim denied.



Robert J. Irvin, Referee


Date