

PARTIES)	UNION PACIFIC RAILROAD COMPANY
)	
TO)	VS.
)	
DISPUTE)	BROTHERHOOD OF MAINTENANCE
)	OF WAYEMPLOYEES DIVISION -IBT
)	RAIL CONFERENCE

Public Law Board consisted of the regular members and, in addition, Referee Meeta A. Bass when this Award was rendered.

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier unjustly progressed charges associated with the Carrier’s Attendance Policy revised March 1, 2020 against Mr. B. Adams by assessing him an Attendance Alert and Advisory Letter dated October 22, 2021, for calling off of work sick on October 18, 2021 (System File MK-2148U-604/1767476 UPS).
2. As a consequence of the violation referred to in Part 1 above, the Carrier shall remove the letter completely from Claimant B. Adams’ employment file; the alleged violation shall be expunged from his employment record and, the Carrier shall follow the terms of our collective bargaining agreement under the provisions of Rule 48(k).”

FINDINGS:

The Board, upon the whole record and all the evidence, finds that:

The Carrier or Carriers and the Employee or Employees involved in this dispute are, respectively, Carrier and Employee within the meaning of the Railway Labor Act, as approved on June 21, 1934. The Board has jurisdiction over the dispute involved herein. Parties to said dispute were given due notice of hearing thereon.

The Claimant has twenty-five (25) years of service with the Carrier. On October 17, 2021, the Claimant contacted his Manager and informed him that he was experiencing flu-like symptoms and, as such, desired to take off work on October 18, 2021. The Manager did not object or request the Claimant to provide documentation to substantiate his illness. The Claimant scheduled a doctor's appointment for the next day but managed his symptoms using over-the-counter remedies instead and then returned to work.

By letter dated October 22, 2021, the Carrier mailed the Claimant an Attendance Alert Advisory, which provided the Claimant an opportunity to meet with his Manager to discuss his attendance. On October 5, 2021, the Organization requested a Rule 48(n) conference by email. A conference was held on November 8, 2021, to discuss the particulars. A narrative dated November 9, 2021, of this discussion, indicates the Claimant had accumulated a "frequent pattern of layoffs" as contemplated by the policy, even though the Claimant had not missed work. The Manager asserted a "no show" could result in an advisory letter. The Manager explained the absence on October 18, 2021, and the Claimant's failure to provide documentation warranted an advisory alert letter. According to the Claimant, he notified the Manager the day before, and no documentation was requested. The Manager determined the Advisory and Alert Letter was appropriate.

The Organization filed a claim by letter dated November 29, 2021, and the Carrier denied the same on January 18, 2022. The Organization advanced the appeal by letter dated January 19, 2022, and the Carrier denied the same by letter dated March 8, 2022. A formal conference was held with no resolution of the claim on March 11, 2022. The Organization submitted a post-conference letter on March 30, 2022, requesting the Carrier re-evaluate their position or the matter would be progressed to the National Railroad Adjustment Board. There was no change in the Carrier's position. This matter is before this Board for a final resolution of the claim.

The rules are incorporated herein as if entirely rewritten. Specifically, Rule 48(n) states;

"(n) An employee in service who feels he has been unjustly treated may request a conference through the General Chairman or other officer of the Organization. If the matter cannot be resolved in the interim, the representative may make a written request for a conference with the appropriate Company manager involved, and such request will contain the precise nature or cause of the complaint. Such request for conference must, however, be made within twenty (20) calendar days of the cause of complaint. If the asserted unjust treatment is left unresolved, it may be handled as a claim or grievance under the provisions of Rule 49."

The Carrier's Attendance Policy is incorporated herein as if entirely rewritten.

The Organization contends that calling in sick does not violate the Carrier's Attendance Policy, especially considering historical practices where the Manager never required documentation for single-day illnesses. The Claimant had twenty-five (25) years of service and had never missed workdays before this incident, and the Claimant had notified the Manager of his absence due to sickness. The Organization argues that since an attendance alert and advisory letter is the first step before discipline, then it should not be regarded as a negative mark on the employee's record. The Organization claims that issuing an advisory alert letter in these circumstances is wholly unjust. The Organization urges the Board to remove the Attendance Alert and Advisory Letter from the Claimant's record.

The Carrier asserts its right to provide coaching and training to employees regarding attendance as a managerial right reserved in the parties' Agreement. According to the Carrier, coaching, conferencing, and training are tools utilized under the policy to reinforce good behavior and to address the importance of understanding attendance expectations. The Carrier explains that an alert letter is not discipline; employees are not charged with a rule violation, and no guilt or penalty is determined. The Carrier asserts Rule 48 (n) has no application in this matter as alleged. Carrier records indicate the Claimant needed to have properly notified his Manager in advance that he would not be at work on October 18, 2021. The Claimant was not assessed as having an Attendance Policy violation or discipline. The Carrier asserts employees can conference the attendance issue with his Manager.

Upon thoroughly examining the evidence and the arguments put forth by both sides, along with pertinent policy guidelines, the Board finds that coaching and counseling

are recognized as tools reserved for management to reinforce positive behavior and clarify expectations. While the Organization argues that issuing such a letter should be regarded as a negative mark on the employee's record, the Board finds the advisory letter does not constitute formal discipline. The record demonstrates a technical violation of the policy; thus, the Manager's action was not unjust. This Board finds no violation of Rule 49.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant not be made.

/s/ Meeta A. Bass

Meeta A. Bass
Neutral Chairperson

Jennifer McNeil

Jennifer McNeil
Carrier Member
Dated: April 29, 2024

John Schlismann

John Schlismann
Organization Member
Dated: April 29, 2024