

SPECIAL BOARD OF ADJUSTMENT NO. 280

Award No. 170  
Case No. 257

PARTIES  
TO  
DISPUTE

Brotherhood of Maintenance of Way Employees  
and  
St. Louis Southwestern Railway Company

STATEMENT  
OF CLAIM

"CLAIM OF THE SYSTEM COMMITTEE THAT:

1. Carrier violated the effective Agreement when Track Laborer Phil Nelson was unjustly dismissed on April 9, 1981.

2. Claimant Nelson shall be reinstated to his former position as Track Laborer with the St. Louis Southwestern Railway Company with pay for all time lost and vacation and seniority rights unimpaired."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant herein was dismissed from service for being absent without authority from his work on Monday, April 6, April 7 and April 8, 1981. Following a hearing requested by Claimant, the discharge was affirmed by Carrier.

Claimant admitted that he was absent on the days in question but indicates that he attempted to contact his Foreman and finally did, indeed, contact the clerk in Carrier's office on April 6. He also alleges that he sustained a personal injury and went to the doctor on that date. Claimant did not offer any evidence or proof of any injury or the fact that he went to the doctor on April 6. Furthermore, the record indicates that the clerk stated in the investigation that he had not been contacted by Claimant until April 8.

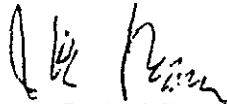
The Board notes that it has long been recognized that employers, such as Carrier herein, must rely on the attendance of their employees in order to perform their normal

business function. The only excuse that an employee has for not at least reporting his intended absence or an emergency absence to the employer, is an urgent and unforeseen circumstance which did not exist in this case.

With respect to the measure of discipline imposed, dismissal, the Board is not inclined to substitute its judgment for that of Carrier, particularly in view of the fact that the Claimant herein had six prior infractions for the same offense over a period of approximately a year and a half.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman



M. A. Christie, Employee Member



C. B. Goyne, Employer Member

Houston, Texas  
May , 1983