

SPECIAL BOARD OF ADJUSTMENT NO. 956

BROTHERHOOD OF MAINTENANCE)	
OF WAY EMPLOYES)	
)	AWARD NO. 139
and)	CASE NO. 139
)	
NEW JERSEY TRANSIT RAIL)	
OPERATIONS, INC.)	

STATEMENT OF CLAIM:

The Organization requests that the discipline (30-day suspension) assessed to Mr. L. Prunet be expunged from his record, and that he be made whole for all financial losses suffered in connection with this discipline.

FINDINGS:

Special Board of Adjustment No. 956, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of the hearing and did participate therein.

There is no dispute about the facts giving rise to this claim. The Claimant failed to cover his assignment on June 1 and 2, 2006. He was charged with being absent without permission and violating the terms of Carrier's attendance policy. A hearing on the matter was held on October 24, 2006. Subsequently, Claimant was issued a thirty-day suspension.

Carrier contends that there is no basis to disturb the discipline assessed in the instant case. Carrier argues that it expects and must have employees come to work on a consistent and regular basis. The Carrier cannot operate efficiently if it cannot depend on its workforce to report for work.

In the instant case, the Carrier argues that the Claimant has a long record of corrective discipline for attendance infractions. After chronicling Claimant's history of absenteeism, Carrier points out that he has been counseled, warned and disciplined on multiple occasions within a one-year period. Regardless of the legitimacy of the Claimant's reasons for absence, Carrier maintains that it has the right to enforce its expectation of regular attendance consistent with the attendance policy. Given the circumstances, Carrier argues that a thirty-day suspension was an appropriate measure of discipline and hardly constitutes an abuse of discretion under these facts.

The Organization argues that there were bona fide reasons for the Claimant to be absent from work on June 1 and 2, 2006. On June 1st he had a court appearance and on June 2nd he was remanded into custody for failing to appear for a second court appearance. Claimant supplied documentation to verify the reasons for his absence. In the Organization's view, the Carrier abused its discretion when it failed to recognize that there were extenuating circumstances beyond the Claimant's control which caused him to miss his assignment.

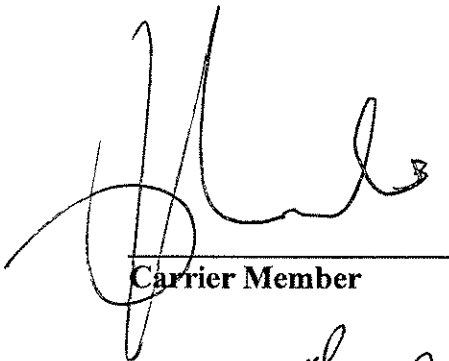
After careful review of the record in its entirety, we find that substantial evidence exists to support the discipline imposed. Under the Carrier's attendance policy, employees are expected to cover their bulletined job assignments. This is necessary in order for the Carrier to provide reliable and efficient service. The status of any employee whose performance is impaired because of continued absence is evaluated under the policy, consistent with individual circumstances and the employee's job performance record.

As established in many awards throughout this industry, the legitimacy of one of more absences does not necessarily relieve the employee of a charge of an unsatisfactory record of attendance over an extended period. The record in the instant case demonstrates this well-established principle. The Claimant entered Carrier's service on August 24, 2004. Since that time, he was verbally counseled on March 11, 2005, issued a written warning on July 8, 2005, assessed a five day deferred suspension on July 28, 2005, a ten day actual suspension on August 15, 2005, a ten day deferred suspension on April 11, 2006 and a fifteen day actual suspension on May 15, 2006.

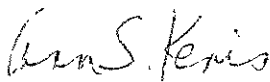
Clearly, the Claimant has amassed an unsatisfactory record of attendance. The Board finds that the Carrier acted reasonably and within its authority to enforce attendance standards and that the resulting disciplinary penalty was fully appropriate and consistent with the tenets of progressive discipline. The Claimant needs to understand that he must report for work on a regular basis. It is hoped that he gets the message before his employment with the Carrier is permanently severed. Based on all the foregoing, the claim must be denied.

AWARD

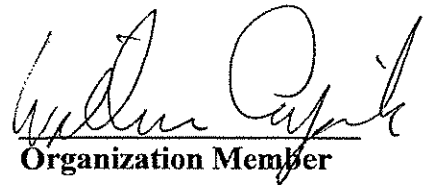
Claim denied.



Carrier Member



ANN S. KENIS
Neutral Member



Organization Member

Dated this 3rd day of June, 2008.