

Award No. 33
Case No. 35

Special Board of Adjustment No. 956

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees
and
New Jersey Transit Rail Operations, Inc.

STATEMENT OF CLAIM:

Appeal on behalf of Trackman G. Moye for restoration to service.

FINDINGS:

Claimant, an employee with less than four years service, was dismissed on April 21, 1987 for excessive absenteeism. He did not appear at the hearing that was duly held in this matter after he had been notified of its time, date and place. No persuasive explanation was offered for that failure.


The record shows that he was absent without permission on March 16, 19, 20, 23, 24, 26, 27, 30 and 31, 1987. These were the dates of absence specifically mentioned in the charges that had been served upon him. While he submitted a doctor's note that he had been "unable to work from April 8th to 2nd due to Acute Influenza," that note was undated and contained no medical details and covered a period that is not in issue. No satisfactory explanation was presented for the above-mentioned March 1987 absences.


In assessing discipline, it was appropriate for Carrier to take claimant's prior record into consideration. That record shows warnings and a 10 day suspension for prior absenteeism as well as a dismissal from all service on July 8, 1986 for Rule G violations. He was reinstated by Carrier on February 4, 1987 without back pay, subject to a six month probationary period "during which any rule infraction will result in immediate dismissal without right of appeal." Claimant and his General Chairman concurred in the probation period reinstatement agreement.

We find no valid basis on this record for setting aside Carrier's decision to dismiss claimant.

AWARD: Claim denied.

Adopted at Newark, New Jersey, June 23 , 1988.


Harold M. Weston, Chairman


Carrier Member


Employee Member