

AWARD NO. 51
CASE NO. 51

Special Board of Adjustment No. 956

PARTIES
TO
DISPUTE:

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

STATEMENT
OF
CLAIM

Claim of the Brotherhood:

The dismissal of Claimant J. Wanamaker was in violation of the Agreement, particularly Rule 27 of the collective bargaining agreement. The Claimant shall be reinstated without loss of compensation, including overtime, and without loss of seniority and vacation rights and any other benefits enjoyed by Claimant prior to dismissal.

FINDINGS

Carrier maintains that Claimant forfeited all seniority by violating Rule 27(b). Rule 27(b) reads as follows:

"Except for sickness or disability, or under circumstances beyond his control, an employee who is absent in excess of fourteen (14) consecutive days without receiving permission from his supervisor will forfeit all seniority under this Agreement. The employee and the General Chairman will be furnished a letter notifying them of such forfeiture of seniority. The employee or his representative may appeal from such action under Rule 26, Section 3."

The record establishes that Claimant was absent in excess of 14 days.

The Claimant's termination was appealed to the Manager Level, where it was revealed that the Organization and the Claimant had given a doctor's note to Mr. Savarese, explaining the Claimant's absences. However, it was admitted that this doctor's note was presented subsequent to the Claimant's receipt of the 14-day letter from Mr. Savarese. Additionally, the Organization indicated that a phone call was placed to the office clerk, Jack McKnight; however, the Petitioner's have failed to provide this Board with dates or times the clerk was allegedly notified. While it may be that the office clerk was notified, the Carrier is correct in its argument that Jack McKnight is not the supervisor. This same issue was addressed in Award No. 35 of this SBA 956.

This record therefore does not provide a basis for reversing or modifying the Carrier's decision to terminate this employee, and therefore, such decision must stand.

AWARD: Claim denied.

Adopted at Newark, New Jersey, *January 10*, 19*90*.


Harold M. Weston, Chairman

Will B. M. - gh
Carrier Member

Shirley A. Rue
Employee Member