

AWARD NO. 55
CASE NO. 55

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

Claim of the Brotherhood:

The dismissal of Claimant V. R. Exum 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 Organization argues in this case that the Claimant met the requirements of Rule 27(b) in that both the sickness and the circumstances were beyond the control of the employee. The Organization contends that the doctor's excuse submitted to the Carrier and the notice of a funeral attendance has provided the necessary evidence to prove this point and exempt the Claimant from the self-executing provisions of Rule 27.

The Board has reviewed the position of both parties as well as the on-property record and has found that there is no basis for intervening in this case. Rule 27(b) mandates that the employee must notify his supervisor and receive permission to be absent except under certain circumstances. There has been no mitigating circumstances shown that would have served to prevent the Claimant from contacting his supervisor during the period from February 11, 1988 through February 24, 1988.

AWARD: Claim denied.

Adopted at Newark, New Jersey, January 10, 1989.


Harold M. Weston, Chairman


Carrier Member


Employee Member