

AWARD NO. 62  
CASE NO. 62

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 Brotherhood:

The dismissal of Claimant G. Jean-Marie was in violation of the Agreement, and 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

The Claimant was a trackman with this Carrier with a seniority date of August 20, 1986. On July 13, 27, 29, 30, and 31, 1987, Claimant was absent without permission from his position. Prior to said infraction, Claimant had been sent several letters regarding his unsatisfactory attendance pattern. As a result, Claimant was charged with and found guilty of excessive absenteeism and absenting himself without permission when he failed to cover his assignment on the aforementioned dates.

The discipline of dismissal from all service was assessed Claimant for his actions in this case. By letter dated September 9, 1987, both the Claimant and the Organization were notified of the assessed discipline.

956-62

The record shows that the Claimant was absent without permission on July 13, 27, 29, 30 and 31. The record further shows that Claimant exhibited a pattern of excessive absenteeism. In his short tenure with this Carrier of approximately one year, the Claimant received three letters of warning and four prior disciplines all regarding his unsatisfactory attendance.

While the Organization has forcibly argued the merits of a violation of Rule 27(a), when the Claimant testified that proper notice was given the Carrier, such argument was not persuasive in light of the Claimant's past record of attendance.

Therefore, given the Claimant's proven inability to modify his unsatisfactory behavior, the discipline assessed in this case was fully warranted. The evidence of record proves that Claimant was consistently and habitually absent, despite repeated warnings by the Carrier. Clearly, the Carrier has the right to sever the employment relationship of such employees.

After complete review and consideration of the record, this Board is compelled to agree with the Carrier's decision that the Claimant's behavior was completely unacceptable and that dismissal was justified.

AWARD: Claim Denied

Adopted at Newark, New Jersey

January 10, 1989

  
Harold M. Weston, Chairman

  
Carrier Member

  
Employee Member