

AWARD NO. 64
CASE NO. 64

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 G. E. Meeks 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

Claimant Meeks was a trackman with this Carrier, with an original seniority of May 8, 1985. Claimant's seniority was terminated when he failed to return from furlough. He was rehired on August 20, 1986, which is his current seniority date with this Carrier.

In his short tenure with this Carrier, Claimant had been warned with both warning letters and an actual discipline that his attendance pattern was unacceptable. Notwithstanding, Claimant was absent without permission on March 29, 30, April 5, 7, and 8, 1988.

As a result, Claimant was charged with absenting himself without permission on these dates and with excessive absenteeism.

An investigation was held and a transcript was taken. Both Claimant and his representative were in attendance. As a result, the discipline of dismissal was assessed. By letter dated May 2, 1988, both the Claimant and the Organization were notified of the assessed discipline.

While the Organization has forcibly argued not only the merits of the Claimant's position, it has also argued that the Carrier failed to properly grant the Claimant a fair and impartial trial and failed to support the charges.

The Carrier maintains that it acted properly in this case. The record proves that the Claimant was absent without permission on March 29, 30, April 5, 7, and 8, 1988. In fact, the Claimant himself admits that he did not request permission to be absent on four of the aforementioned dates. The Claimant denies being absent without permission on March 30, 1988, but the record as a whole supports the Carrier's position in this case.

The Carrier has been quite lenient with the Claimant. Claimant had been afforded numerous opportunities to correct his behavior. In his short tenure with the Carrier, Claimant received five notices regarding his unacceptable absentee record. In addition, he received a 20-day actual suspension, a 30-day actual suspension, and a 90-day actual suspension. Notwithstanding, Claimant failed to modify his unacceptable behavior and proved himself unworthy of continued employment with the Carrier.

This Board has reviewed the entire record and is satisfied that the Carrier has complied with the requirements of the agreement. The Organization has not been persuasive in convincing this Board to set aside the Carrier's determination in this case.

AWARD: Claim denied.

Adopted at Newark, New Jersey, *January 10, 1980*⁹⁰.



Harold M. Weston, Chairman



Carrier Member



Employee Member