

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 91

Docket No. NEC-BMWE-SD-2250D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The Dismissal of Trackman D. Porter for alleged 'Excessive absenteeism' (on specific dates) during the period from March 31, through and including May 9, 1988, was without just and sufficient cause and an abuse of the Carrier's discretion (System File NEC-BMWE-SD-2250D).
2. The Claimant shall be reinstated to service with seniority and all other rights unimpaired, his record cleared of the charges leveled against him and he shall be compensated for all wage loss suffered."

FINDINGS:

Claimant D. Porter was employed as a trackman by Carrier in Philadelphia, Pennsylvania. On May 9, 1988, Claimant was directed to attend a formal investigation in connection with a charge of excessive absenteeism; Carrier alleged that Claimant had failed to report for duty on six occasions from March 31 through May 1, 1988. The hearing took place on May 26, 1988, and as a result, Claimant was dismissed from Carrier's service. The Organization thereafter filed a claim on Claimant's behalf, challenging his dismissal.

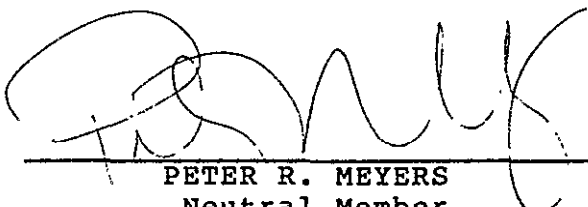
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence to support the finding that the Claimant was guilty of the offense of excessive absenteeism. The record reveals that he was admittedly absent from service on March 31, April 5, 6, 11, 24, and May 1, 1988. This Board has consistently held that three absences in a thirty-day period constitutes excessive absenteeism.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find the action taken by the Carrier to have been unreasonable, arbitrary, or capricious.

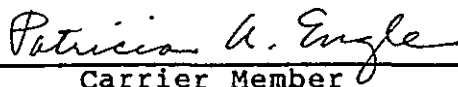
The Claimant's record reveals that he has been progressively disciplined for excessive absenteeism on four occasions during the course of his employment and he has been progressively disciplined for unauthorized absenteeism on four other occasions. This Board recognizes that the Claimant has been suffering from personal problems. However, unless the action taken by the Carrier was unreasonable, this Board will not substitute its judgment for that of the Carrier. The Carrier has determined that termination of the Claimant's employment is an appropriate response to absenteeism problems. This Board will not substitute its judgment for that of the Carrier. It is well established that an employer has a right to expect and rely on reasonably regular attendance of employees. The Carrier's action was not unreasonable.

Award:

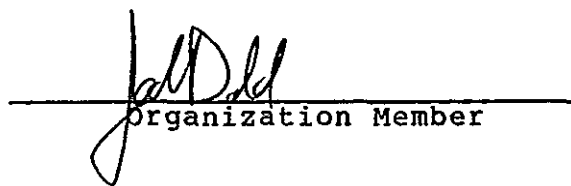
Claim denied.



PETER R. MEYERS
Neutral Member



Patricia A. Engle
Carrier Member



J. D. Dadd
Organization Member

Date: 6-14-89