

SPECIAL BOARD OF ADJUSTMENT NO. 1122

BROTHERHOOD OF MAINTENANCE)	
OF WAY EMPLOYEES)	
)	
and)	AWARD NO. 63
)	CASE NO. 63
NORTHEAST ILLINOIS REGIONAL)	
COMMUTER RAILROAD - METRA)	

STATEMENT OF CLAIM:

Claim on behalf of D. Westbrooks, B&B Mechanic, for expungement of discipline assessed, payment for all time lost, and reimbursement for benefits lost during time withheld from service.

FINDINGS:

Special Board of Adjustment No. 1122, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act; as amended; that the Board has jurisdiction over the dispute herein.

By notice dated August 26, 2010, the Claimant was charged with excessive absenteeism and failure to protect his position when he did not report for work on August 25 and August 26, 2010. Following formal investigation on September 23, 2010, Claimant was dismissed from service.

B&B Supervisor J. Bailey testified that employees are allotted sick days, vacation days and personal days to cover their absences from work. When they exceed their allotted time off, they are issued "dock days." Supervisor Bailey testified that employees are generally allowed a "grace period" of three dock days. If an employee incurs more than three dock days, Carrier arranges a conference to try to resolve the issues surrounding the employee's absenteeism. On June 23, 2009, Carrier held a conference with the Claimant regarding his attendance. He was informed that he had to make every effort to protect his position.

By the end of April, 2010, Claimant had used all of his paid leave time for the 2010 leave year, including three sick days, fifteen vacation days, and four personal days. He thereafter incurred four dock days in May 2010 and was notified by Carrier that his absenteeism was excessive and unacceptable. By the time the Claimant incurred the two absences for which he was charged with investigation, he had accumulated a total of twelve dock days.

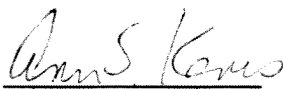
Claimant testified that he had excessive unpaid parking violations which resulted in a warrant being issued for his arrest. Claimant was in jail on August 25 and 26, 2010 and was unable to protect his assignment. He stated that he had two more court dates in September 2010, after which time the legal matters would be resolved.

The Board has reviewed the record in its entirety and has given careful consideration to the testimony and evidence presented at the investigation. We have also examined the Claimant's prior record. He was hired by the Carrier in June 1999 and has been assessed discipline on ten occasions since that time; eight of those occasions were for attendance-related infractions. Claimant has been reprimanded twice and suspended five times for absenteeism. He was dismissed on December 15, 2008 for attendance issues and reinstated with discipline reduced to Step 4. He was also dismissed in July 2009 for operating rule violations and subsequently reinstated in November 2009.

Under Carrier rules and policies, employees are expected to report for duty and must not absent themselves without proper authority. The Carrier has the right and the expectation that its employees will make every effort to protect their assignments. The record in this case supports Carrier's determination that Claimant's absences were excessive and that he failed to protect his assignment on August 25 and August 26, 2010. It is well-established that excessive absenteeism, even for legitimate reasons, need not be accepted by the Carrier where the irregular attendance is chronic and corrective discipline has been unsuccessful. Unfortunately for the Claimant, he has accumulated what can only be described as a deplorable record with regard to his attendance. Counseling and progressive discipline have been tried on many occasions and these corrective efforts have not worked. Claimant has promised to improve his attendance in the past but he has been unable to make any sustained improvement. In light of this and his overall past discipline record, we have no basis for finding that dismissal was an arbitrary or unreasonable exercise of Carrier's discretion.

AWARD

Claim denied.


ANN S. KENIS
Neutral Member

Dated this 30th day of November, 2010.