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AWARD NO. 5
CASE NO. 5

SPECIAL BOARD OF ADJUSTMENT NO. 171

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES
vs
GREAT NORTHERN RAILWAY COMPANY

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that the Carrier violated the rules of the current Agreement, effective September 1, 1950.

"1. When on September 11, 1954 the Carrier held one John Partyka, Freight Handler at Minneapolis, Minnesota, from service for a period of five days on account of a formal investigation that was held at 10:30 a.m. August 24, 1954.

"2. That the Carrier now be required to compensate John Partyka for the five days that he was held from service in what we contend was irregular and not in conformity of the investigation held at 10:30 a.m. August 24, 1954."

FINDINGS: This Special Board of Adjustment upon the whole record and all the evidence, finds that:

The carrier and the employee or employees in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Special Board of Adjustment has jurisdiction over the dispute involved herein.

This claimant was disciplined and given a five-day suspension from 10:30 A.M. August 24, 1954. On August 21, 1954, the claimant received a notice from the Carrier telling him to report for an investigation at 3:00 P.M. on Tuesday, August 24th, to place responsibility regarding the claimant absenting himself from duty without proper authority on August 11, 1954, August 12, 1954, and August 13, 1954, while he was employed at the Minneapolis Freight Station between the assigned hours of 6:00 A.M. and 2:30 P.M.

The Carrier, in its notice to the claimant, stated that on August 11, 1954, the claimant did not report to work until 6:25 A.M., on August 12th he did not report until 6:31 A.M., and on August 13th he did not report until 6:29 A.M. The Carrier also informed the claimant that they were to investigate the fact that he absented himself from duty without proper authority on August 10th, August 11th, August 12th and August 13, 1954, and that he left the premises of the Minneapolis Freight Station in an automobile at 6:42 A.M. August 10th and didn't return until 7:05 A.M.; that on August 11th he left the premises at 6:42 A.M. and didn't return

until 7:05 A.M.; that on August 12th he left the premises at 6:50 A.M. and didn't return until 7:12 A.M.; and that on August 13th he left the premises at 6:45 A.M. and didn't return until 7:05 A.M. Carrier stated that there was no deduction in his pay for the time that he absented himself from work either due to the fact that he was late in reporting for work or after he reported for work he left the premises for a period of time.

The claimant states that he did report to one Paul Gartz, who was not a supervisor for the company but whom this claimant stated was in charge of the Freight House from 6:00 A.M. to 8:00 A.M. He stated that he had called Paul Gartz on the evening of August 10th and told him that his children were sick and that he would be late for work on the following morning. He also stated that he called the Freight House on August 12th and 13th to state that he would be late due to the illness of his children. The claimant further stated that it had been a custom of long standing for the employees at the Freight House to leave the Freight House after they had reported for work to go for a cup of coffee and that Paul Gartz, who was a freight handler, was given authority by Mr. McKetterick, who was foreman at the freight station. However, Mr. McKetterick had died three or four years before this incident.

There is considerable conflict between the testimony of the Carrier's witnesses and the testimony of the claimant and his witnesses, and as the Carrier had the opportunity to observe the witnesses as they testified and to weigh their testimony, this Board cannot substitute its judgement for the judgement of the Carrier and state that the five-day suspension should not have been given or was too severe under these circumstances.

Therefore, this claim must be denied.

A W A R D

Claim denied.

/s/ Thomas C. Begley
Thomas C. Begley, Chairman

/s/ C. A. Pearson
C. A. Pearson, Carrier Member

/s/ F. A. Emme
F. A. Emme, Employee Member

Signed at St. Paul, Minnesota, this 10th day of April, 1957.