

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 32
Docket No. 38

PARTIES: Brotherhood of Maintenance of Way Employees
TO :
DISPUTE: Chicago and North Western Transportation Company.

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

- (1) The dismissal of Jose Chavez for alleged unauthorized absence on October 3, 4 and 5, 1983 was without just and sufficient cause. (Organization File 9D-4150; Carrier File 81-84-86-D).
- (2) Trackman Jose Chavez shall be allowed the remedy prescribed in Rule 19(d)."

FINDINGS:

This Board, upon the whole record and all the evidence, finds and holds that the employee and the carrier involved, are respectively employee and Carrier within the meaning of the Railway Labor Act as amended; and that the Board has jurisdiction over the dispute herein.

Prior to the occurrence giving rise to the dispute herein, claimant, with about eight years of service, was employed by the Carrier as a trackman. On October 7, 1983, claimant was instructed to attend a formal investigation on October 12, 1983, on the charge:

"To determine your responsibility, if any, in connection with your absence from duty without proper authority on October 3, 4 and 5, 1983."

The investigation was postponed and conducted on October 19, 1983. A copy of the transcript of the investigation has been made a part of the record. In the investigation it was developed that claimant did have permission to be absent on October 4, 1983, and that date was eliminated from the charge.

There was substantial evidence adduced at the investigation that claimant was absent without permission or notice to supervisory personnel on October 3 and 5, 1983.

Rule 14 of Carrier's General Regulations and Safety Rules provides:

"Employees must report for duty at the designated time and place. They must be alert, attentive and devote themselves exclusively to the Company's service while on duty. They must not absent themselves from duty, exchange duties with or substitute others in their place without proper authority."

Claimant was in violation of the above-quoted rule. Discipline was warranted. Claimant's prior record with respect to absenteeism was far from satisfactory. He had been reprimanded and disciplined on numerous prior occasions for absenteeism. His offense in the present case, coupled with his prior disciplinary record, fully warranted Carrier's action. The claim will be denied.

A W A R D

Claim denied.

Paul C. Carter
Chairman, Neutral Member

J. D. Crawford
Carrier Member

H. B. Harper
Labor Member

Dated: April 16, 1985.