

## SPECIAL BOARD OF ADJUSTMENT NO. 956

BROTHERHOOD OF MAINTENANCE  
OF WAY EMPLOYES

and

NEW JERSEY TRANSIT RAIL  
OPERATIONS, INC.

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AWARD NO. 133  
CASE NO. 133

### STATEMENT OF CLAIM:

The Organization requests that the discipline of dismissal from all service assessed to Mr. C. Marotta be expunged from his record, that he be returned to service with seniority intact and full restoration of all benefits.

### FINDINGS:

Special Board of Adjustment No. 956, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employes within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of the hearing and did participate therein.

Claimant entered the Carrier's service in June of 1988. At some unspecified time, he was placed on a medical leave of absence. Beginning on January 12, 2005, and then again on February 28, 2005 and August 17, 2005, Claimant was notified to report to Carrier's Medical Services Department for an assessment of his physical condition. Each of these letters states in pertinent part:

Failure on your part to comply with this directive will be considered insubordination and may result in disciplinary action in accordance with the applicable agreement between NJ TRANSIT and your respective Labor Organization.

All three letters were sent by certified mail to the Claimant's last known address of record and to a post office box address listed in his name. The receipt and record of delivery indicates that each letter was received and signed for at the Claimant's address.

Claimant did not report to the Medical Services Department nor did he contact the Carrier to advise them of his current status.

By certified letter dated September 15, 2005, Claimant was notified to report for hearing in connection with the following charges:

On September 1, 2005 you failed to report to NJ TRANSIT's Medical Services Department as instructed by letter sent on August 17, 2005. Also, it has been discovered that you have changed your address without giving immediate written notice to the designated officer.

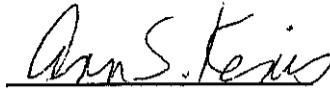
Therefore, in connection with this matter you are charged with the alleged violation of: NJ Transit Rail Employee Safety Rules and On-Track Safety Procedure Manual 2003 TRO-5, Rule 1: 'Employees must give immediate written notice of change in residence or telephone number to a designated officer,' and Rule 3: 'Employees must devote themselves exclusively to the Company's service while on duty. They must refrain from any conduct which adversely affects the performance of their duties, other employees, the public, or from conduct which discredits the Company. Acts of dishonesty, insubordination, hostility or willful disregard of the Company's interest are prohibited.'

The hearing was postponed at the Organization's request and took place on October 20, 2005. Claimant did not appear at the hearing and efforts to locate him before proceeding with the hearing on that date were unsuccessful. He was subsequently dismissed from service.

Based on our review of the record, we find that substantial evidence exists to support the Carrier's determination that Claimant was guilty of the charges lodged against him and that the discipline imposed was fully warranted. Numerous attempts to contact the Claimant at his last known address of record have proved fruitless. If Claimant desired to maintain his employment status with the Carrier, it was incumbent on him to comply with Carrier's instructions and to notify the Carrier of his whereabouts. He did not do so. It is evident that the Claimant has abandoned his employment relationship with the Carrier. Therefore, the claim must be denied.

**AWARD**

**Claim denied.**



**ANN S. KENIS**  
**Neutral Member**

  
**Carrier Member**  
**Organization Member**

**Dated this    day of                    , 2006.**