

Special Board of Adjustment No. 956

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employees  
and  
New Jersey Transit Rail Operations, Inc.

STATEMENT  
OF  
CLAIM:

The dismissal of B & B Mechanic M. Morris was without just and sufficient cause and he shall be reinstated with seniority and all benefits.

FINDINGS:

Claimant, an employee with 2 years 2 months service, was dismissed for not returning to his assignment on time. He had asked for permission to leave the site in Newark at 12 noon to cash his check at lunch time. The request was granted and, according to the foreman, he was told to return by 12:30 p.m., the end of his lunch period. Claimant's testimony is that he told the foreman that "it would take me a half an hour or more." He denied that he was instructed to return by 12:30 p.m.

At any rate, when claimant did not get back by 12:30, the foreman and another employee completed the loading assignment that claimant and they had been working on before lunch and waited for claimant until 1:25 p.m., at which time operations required their return with the material, to the Woodbridge Shop. According to claimant, he returned to their Newark work location

at 1:30 p.m. and got to Woodbridge by bus and walking at 2:30 p.m.

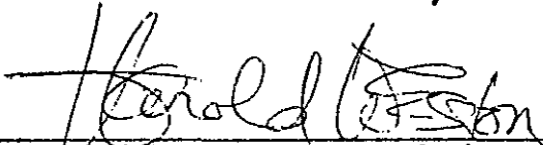
His explanations are not persuasive and he did not take the pains he should have to try to inform his foreman when he was so late. He could, for example, have reached the Carrier's Police office near the Newark work site.

Disciplinary action is warranted in this situation itself. In determining the measure of discipline, it was not inappropriate for Carreir to take claimant's prior record into consideration, including a 30-day suspension for sleeping on duty in July 1985 and permission to return to service on May 1, 1986 after having been absent without authority. On the latter occasion, he was allowed to return to service on a leniency basis subject to six months probation. The violation now under consideration occurred within four months after he had been allowed to return to duty on a leniency basis.

We will not substitute our judgment for that of Carrier in these circumstances.

AWARD: Claim denied.

Adopted at Newark, N.J. July 1, 1987

  
Harold M. Weston, Chairman

  
Carrier Member

  
Employee Member