

AWARD NO. 52
CASE NO. 52

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

Claim of the Brotherhood:

The dismissal of Claimant A. Chandler was in violation of the Agreement, particularly Rule 27, and therefore, the Claimant shall be reinstated without loss of compensation, including overtime, and without loss of seniority and vacation rights and any other benefits enjoyed by Claimant prior to dismissal.

FINDINGS

Carrier maintains that Claimant forfeited all seniority by violating Rule 27(b). Rule 27(b) reads as follows:

"Except for sickness or disability, or under circumstances beyond his control, an employee who is absent in excess of fourteen (14) consecutive days without receiving permission from his supervisor will forfeit all seniority under this Agreement. The employee and the General Chairman will be furnished a letter notifying them of such forfeiture of seniority. The employee or his representative may appeal from such action under Rule 26, Section 3."

The record establishes that Claimant was absent in excess of 14 days.

The Organization argues that the Claimant did present the Carrier with a doctor's note explaining his absences. However, this note was not presented to the Carrier until approximately a week after the letter informing the Claimant of his non-compliance with Rule 27(b) was sent. Presenting the Carrier with a doctor's note approximately twenty-three (23) days after one was initially unable to return to duty is not considered in compliance with Rule 27(b). The Claimant does have an obligation to the Carrier to cover his assigned position. If unable to do this, the Claimant contractually has the obligation to inform the Carrier of his inability to work as soon as possible. To this point, the Organization did not show that the Claimant notified his supervisor, and therefore, the Claimant is in default.

Rule 27(b) is quite specific. It mandates that the employee must notify his supervisor for any type of absenteeism. In this case, the employee failed to inform his supervisor or any Carrier official of his alleged infirmity, and absented himself from his assigned position.

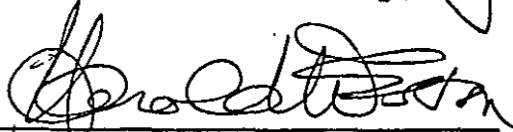
The Carrier's concern about absences is not cavalier or unreasonable. After all, it is responsible for the safe and efficient operation of a railroad and in order to carry out that mission it must have employees who can be relied upon for steady service.

The Organization as well as Carrier have committed themselves to Rule 27 and this Board is without authority to ignore its requirements.

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AWARD: Claim denied.

Adopted at Newark, New Jersey, *January 10, 1969*²⁰


Harold M. Weston, Chairman


Carrier Member


Employee Member