

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 discipline assessed Trackman K. A. Douglas of 15 days for absenteeism was without just and sufficient cause. As a result the Claimant shall be made whole and his record expunged of the charge.

FINDINGS

Claimant Douglas was a trackman with this Carrier with a seniority date of August 20, 1986. On June 10, 1987, Claimant was absent from his position without permission. Prior to the instant infraction, Claimant had received two notices regarding his unacceptable pattern of absence. As a result of his actions, Claimant was charged with the violation of excessive absenteeism and being absent without permission when he failed to cover his assignment on June 10, 1987.

The Claimant was properly notified of the charges by certified letter of June 17, 1987, Certified Receipt P 525 712 361. The letter was mailed to Claimant's address of record with this Carrier and was receipted and signed for by "Karen Pettiford". Notwithstanding, the investigation occurred in absentia on June 30, 1987. By letter dated

July 13, 1987, both the Claimant and the Organization were notified of the discipline.

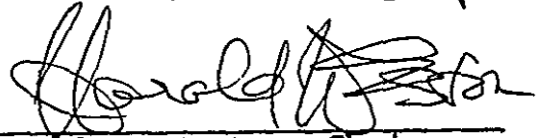
On Page 4 of the investigation, Claimant's supervisor testified that Claimant was in fact absent without permission on June 10, 1987. The investigation further showed that Claimant received two prior notices regarding his unacceptable attendance patterns on December 30, 1986 and one on June 12, 1987. In addition, the investigation showed that Claimant had a pattern of excessive absences. In fact, record reveals that in a tenure of less than one year, Claimant had been absent from his position on 12 separate occasions.

While the Organization strenuously objected to the proceedings being held in the Claimant's absence, this Board cannot find that the Carrier erred in the procedure of notifying the Claimant of the hearing. It was the Claimant's choice to be absent at this hearing and thus unable to refute the testimony of the witnesses.

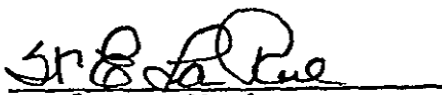
This Board has reviewed the record of this case and has concluded that the Carrier was justified in the action it took against this employee.

AWARD: Claim denied.

Adopted at Newark, New Jersey, January 10, 1988⁹⁸.


Harold M. Weston, Chairman


Carrier Member


Employee Member