

SPECIAL BOARD OF ADJUSTMENT NO. 957

SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY

"CARRIER"

and

BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYEES

"ORGANIZATION"

Award No. 14

STATEMENT OF CLAIM:

Claim of the Brotherhood (BMWE-86-29-F12) that:

This dismissal of track General Helper Byron Wood was without just and sufficient cause and was excessive discipline particularly in light of the alleged offense.

REMEDY:

The Claimant shall be reinstated without loss of compensation and without loss of seniority and other contractual benefits and privileges the Claimant enjoyed prior to his dismissal.

OPINION OF THE BOARD

Claimant, B. Wood, was discharged on November 3, 1986, for being AWOL in violation of Work Rule 24. The Organization seeks his reinstatement without loss of compensation

The arbitration hearing in this matter took place on September 21, 1987. Claimant was present and represented by the Organization.

The basic facts are not complex. On October 30, 1986, Claimant was scheduled to report to work at 3:00 p.m. He did not appear. Carrier apparently received no message from Claimant on that day concerning his absence. Claimant later contended that he had his wife call on that day to report his absence due to illness.

The Carrier maintains that as it received no calls concerning Claimant's absence, he was AWOL and under Carrier rules was properly discharged. The Organization contends that Carrier has failed to prove the alleged offense and that Carrier has further failed to administer discipline with an even hand.

Article IX, Section 903 (Failure to Report to Work) of the Labor Agreement, cited by the parties, states:

Failure to report for work, without being excused by SEPTA, shall constitute a cause for dismissal from employment, but is subject to the grievance procedure.

Carrier Work rules, cited by the parties, state in relevant part:

22. Report for Work

Employees, unless excused, must report and be fully ready for work at the assigned times, locations areas, etc., in accordance with the schedules set up in the employees' particular departments and locations.

* * * *

28. Sickness

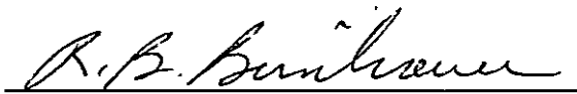
Notice of sickness must be given by the employee to his/her supervisor (unless specifically instructed to do otherwise by one's supervisor) prior to the starting time of one's shift on the first day of one's intended absence due to sickness....

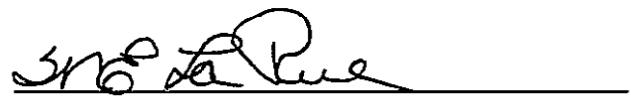
The Board has determined that the claim must be denied.

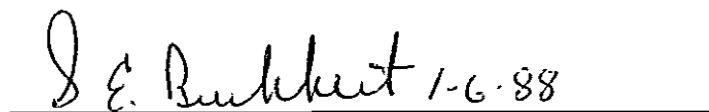
Carrier Rules clearly obligate employees to give proper notice of any absence. According to both the contract and Work Rules, failure to fulfill this obligation subjects an employee to discharge. The weight of evidence here establishes that Claimant did not supply proper notification of his absence on October 30. Despite there being no evidence that Claimant was physically unable to call the Carrier personally, he did not do so. Although it was contended that his wife called on his behalf, there is no direct evidence of such a call being placed. Although an employee may in appropriate circumstances delegate his obligation to contact the Carrier concerning an absence, the Claimant must here bear responsibility when the designee did not perform the function properly. Finally, there exists no mitigating factors justifying Claimant's reinstatement, as he was a short-term employee with a poor work record that included one prior occurrence of AWOL resulting in a suspension with final caution.

AWARD

Claim denied.


R. B. BIRNBRAUER
Carrier Member


W. E. LaRUE
Organization Member


S. E. BUCHHEIT
Neutral Member