

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 99

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
TO :
DISPUTE: NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) -
NORTHEAST CORRIDOR

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
that:

1. The Carrier has placed Mr. Hayes in a double jeopardy type situation. When first he was charged with violating the "excessive absenteeism policy" and subsequently the charge was dropped. The Carrier gave no specific reasons why the charge was dropped nor did it inform him that he would be recharged.
2. The signature on Exhibit "G" is a forgery and therefore it should not be included in the transcript.
3. Exhibit "E-2" dated September 11, 1988 indicates Claimant was docked .08 of an hour. However, the docking was not substantial enough to deduct this time from his pay. That being the case, that date should be removed from the charge.

FINDINGS:

Claimant L. Hayes was employed as a trackman by Carrier.

Claimant was notified to appear for trial in connection with the following charge:

"You have been excessively absent, in that you were absent in whole, or in part on the following dates: September 1st, 7th, 11th, 22nd, 1988".

The trial was held on October 13, 1988, and as a result, Claimant was assessed discipline of a ten day suspension. The Organization thereafter filed a claim challenging Claimant's suspension.

This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of excessive absenteeism because he was absent for his entire tours of duty on September 1, September 7, and September 22, 1988, and he was absent for part of his

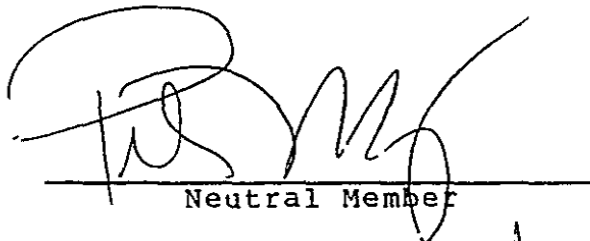
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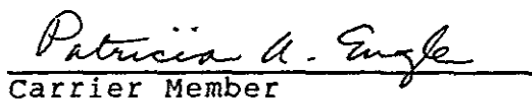
tour of duty on September 11, 1988. Those four occasions occurred within a 30 day period and this Carrier considers three or more absences within a 30 day period to constitute excessive absenteeism.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This claimant had received a warning letter for excessive absenteeism in April of 1988. He had also received two warning letters for the same offense in 1987. The ten day suspension issued to the Claimant in this case is consistent with the Carrier's absenteeism policy. This Board cannot find that the action taken by the Carrier was unreasonable, arbitrary or capricious. Therefore, the claim must be denied.

AWARD

Claim denied.


Neutral Member


Carrier Member

Date: 10-17-89


Organization Member