

PUBLIC LAW BOARD NO. 3166

In the Matter of: ) National Mediation Board  
 ) Administrator  
BROTHERHOOD RAILWAY CARMEN )  
OF THE UNITED STATES )  
AND CANADA, )  
 )  
Organization, ) Case No. 76  
 ) Award No. 69  
and )  
 )  
CHICAGO AND NORTH WESTERN )  
TRANSPORTATION COMPANY, )  
 )  
 )  
Carrier. )

Date of Hearing: April 18, 1986  
Place of Hearing: Chicago, Illinois  
Date of Award: March 6, 1987

MEMBERS OF THE BOARD

Employees' Member: Mr. Patrick J. Murphy  
Carrier Member: Mr. Barry E. Simon  
Neutral Member: Mr. John B. LaRocco

STATEMENT OF THE CLAIM

1. Coach Cleaner M. Desmond was erroneously charged with excessive absenteeism and tardiness on December 10, 1982.
2. Coach Cleaner M. Desmond was unjustly assessed sixty (60) days actual suspension on December 29, 1982.
3. The Chicago and North Western Transportation Company failed to provide written reasons for denial within the time limits provided by Article V 1(a) of the August 21, 1954 Agreement.
4. That the Chicago and North Western Transportation Company be ordered to compensate Coach Cleaner M. Desmond for all lost wages, plus all benefits to which he is entitled, plus 6% annual interest on all lost wages, in accordance with Rule 35.

OPINION OF THE BOARD

This Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act as amended; that this Board has jurisdiction over the parties and the subject matter of the dispute herein; that this Board is duly constituted by an Agreement dated October 12, 1981; and that all parties were given due notice of the hearing held on this matter.

Claimant, a Chicago Coach Cleaner, was absent from work on November 17, 1982 and December 6, 1982. In addition, he did not report timely to his assignment on December 3, 1982.

The Carrier convened an investigation on December 15, 1982 to determine if Claimant's two absences and one instance of tardiness were excessive in view of his past attendance record. Although Claimant may have had a legitimate excuse for the December 6, 1982 absence and for reporting to work late on December 3, 1982, he apparently lacked a good and sufficient reason to be off on November 17, 1982. This Board has ruled on numerous occasions that in order to determine if an employee is excessively absent, the Carrier must consider his attendance record over a reasonable period of time. In this instance, we conclude that Claimant's lack of justification for his November 17, 1982 absence as well as his history of absenteeism confirm that he was absent at more than the usual rate.

Claimant had performed only two years, eight months of service at the time of this discipline. Also, the Carrier had previously reprimanded Claimant twice and suspended him four times for committing the same offense. The past discipline obviously did not induce Claimant to improve his attendance

record. Therefore, this Board must uphold the assessed discipline.

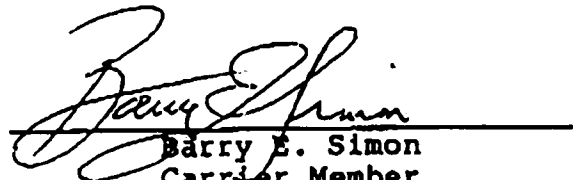
Finally, we note that the Organization argued that the Carrier's May 4, 1983 denial letter failed to comply with the requirements of Article V, Section 1(a) of the August 21, 1954 Agreement. The Carrier complied with the minimum requirements of Article V, Section 1(a) even though its denial letter was succinct and brief.

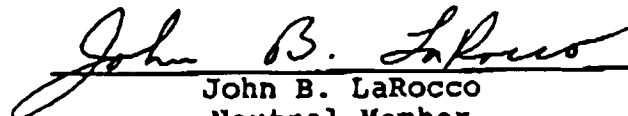
AWARD AND ORDER

Claim denied.

DATED: March 6, 1987

  
Patrick J. Murphy  
Employees' Member

  
Barry E. Simon  
Carrier Member

  
John B. LaRocco  
Neutral Member