

AWARD NO. 18  
Case No. 18

Organization File No.  
Carrier File No. IC-BLET-2008-00020

**PUBLIC LAW BOARD NO. 7154**

PARTIES ) BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN  
 )  
TO )  
 )  
DISPUTE ) CANADIAN NATIONAL (ILLINOIS CENTRAL RAILROAD)

STATEMENT OF CLAIM:

Claim of CN/IC Engineer T. J. Green for the removal of the 10-day suspension for the alleged violation of Canadian National/Illinois Central General Code of Operating Rule I assessed on April 22, 2008 in connection with his alleged excessive absenteeism during the period of March 17, 2008 through April 13, 2008 with notations of discipline expunged from his personal work record and compensation for all time lost, including loss of earnings due to attending the investigation.


FINDINGS:

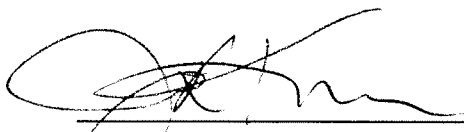
The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated October 15, 2007, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

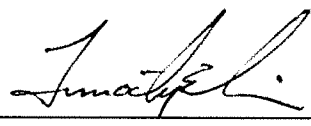
Following a formal investigation at which he was charged with excessive absenteeism, Claimant was assessed a ten day suspension. During the twenty-eight day period from March 17 through April 13, the record shows that Claimant missed work on five days. The Carrier compares this to the record of the other engineers at New Orleans and concludes they had an average of 0.83 days absent during the same period.

In Award No. 14 we discussed at length the issue of using "shop" averages to determine whether an employee is excessively absent. While we maintain the same opinion in this case, we must also look at Claimant's attendance record apart from those averages. We concur with the Carrier that five days of absence in a four week period is excessive. As has been noted in many arbitration decisions in this industry, the fact that an employee may be legitimately ill and have received permission to be absent does not protect him from discipline when those absences reach an excessive level. Employees are expected to come to work or be available for call on a regular basis. In this case, we find that Claimant failed to meet that obligation. The discipline was supported by substantial evidence and was neither arbitrary nor unreasonable.

AWARD: Claim denied.

  
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Barry E. Simon  
Chairman and Neutral Member

  
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J. R. Koonce  
Employee Member

  
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Timothy E. Rice  
Carrier Member

Dated: December 2, 2009  
Arlington Heights, Illinois