

PARTIES TO DISPUTE:

UNION PACIFIC RAILROAD COMPANY  
AND  
BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN

STATEMENT OF CLAIM:

*"Request the removal of the 1<sup>st</sup> Offense absenteeism from the record of engineer R. Bryant with him being made whole, which includes but not limited to lost earnings, all vacations rights, cobra payments and any other penalties associated with this discipline."*

FINDINGS:

On January 15, 2004, Carrier implemented its Attendance Policy, wherein, employees are advised they may be subject to discipline for excessive absenteeism. The aim of the Attendance Policy is to identify those employees determined by Carrier to have established a frequent or pattern of: weekend layoffs, holiday layoffs, personal layoffs without medical documentation, or whose availability is significantly lower than his/her peers. The attendance record of an employee who appears to have established such a pattern is reviewed for the prior 90 day period, in conjunction with a conference with the employee to allow an explanation. If, after the conference, Carrier determines there is sufficient evidence to warrant an investigation, a letter of notification is issued.

On June 30, 2004, Carrier issued letter of notification to Engineer R. Bryant III, advising *"You are hereby notified to be present at the Conference Room, MTO Office 6215 E. Jewella Road, Shreveport, LA at 9:00 a.m., on July 8, 22004, for a formal investigation.*

*The purpose of this investigation is to develop the facts and determine responsibility, if any, in connection with your alleged violation of the Union Pacific Attendance Policy as a result of your alleged failure to protect employment by excessively absenting yourself from service as noted on the attached work history between April 1, 2004 and June 30, 2004 while employed as Engineer with Union Pacific Railroad."*

After agreed upon postponement, investigation was held on July 23, 2004. Following review of transcript of investigation, Carrier found Engineer Bryant III responsible for First Offense violation of its Attendance Policy, as charged.

Discipline was appealed and denied in accordance with agreement. Partisan parties were unable to resolve this dispute on property, and it comes, now, before this Board for final and binding adjudication.

During formal investigation Carrier introduced evidence indicating from April 1, 2004 to June 30, 2004, the time period under review, Engineer Bryant III laid off 27 days and worked, only, 4 of 13 weekends.

However, it was developed through questioning of witnesses from both sides and by introduction of documentation that both Engineer Bryant III as well as his wife were undergoing treatment for cancer and were under doctor's care from May 25, 2004 through July 26, 2004. Organization made the point, also, that Engineer Bryant III's children, who were of some limited assistance, were under court order to visit his ex-wife every month on alternate weekends. During the time the children were out of the home, Engineer Bryant III and his wife were left to care for each other.

Carrier responded that although certain absences may be permitted, it is well established in the railroad industry that such permission is no guarantee discipline will not be assessed.

OPINION OF THE BOARD:

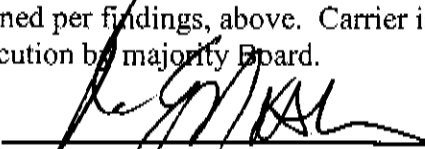
After reviewing the entire record, we believe this is a dispute that had great potential for resolution prior rising to the level of arbitration. On more than one occasion, Carrier requested Engineer Bryant III to provide medical documentation to substantiate his continued absences. Had he been a bit more prompt in providing such information, the formal investigation may well have been canceled.


Carrier, on the other hand, received all required medical documentation in sufficient time to cancel formal investigation and could, easily, have done so.

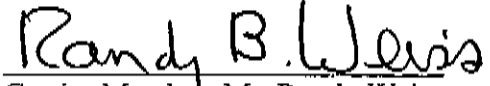
In any event, because of the very special facts and circumstances of this dispute, the Board feels discipline assessed Engineer Bryant III was too harsh; discipline is set aside without prejudice to either party's position on the reasonableness of Carrier's Attendance Policy.

AWARD:

Claim is sustained per findings, above. Carrier is directed to implement this award within 30 days of execution by majority Board.

  
\_\_\_\_\_  
J. E. (Jim) Nash - Arbitrator, Chairman and Neutral Member

  
\_\_\_\_\_  
Employee Member, Mr. Lee Pruitt  
Brotherhood of Locomotive Engineers &  
Trainmen

  
\_\_\_\_\_  
Carrier Member, Mr. Randy Weiss  
Union Pacific Railroad Company

May 16, 2005