

The Second Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

Parties to Dispute: { System Federation No. 1, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Electrical Workers)
 { Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That under the terms of the controlling agreement Electrician Charles J. Pulver was unjustly dismissed from the service of the Consolidated Rail Corporation on February 1, 1977.
2. That, accordingly, the Carrier be ordered to reinstate Electrician Charles J. Pulver to his former position with seniority rights unimpaired and compensation for all lost time.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was dismissed on February 1, 1977 for being "Absent without permission December 8, 1976 through January 7, 1977 inclusive". The investigative hearing was held on January 26, 1977 without Claimant being present. The evidence at the hearing indicated that Claimant had expressed a desire for a six months leave of absence but such leave had not been granted and he simply absented himself without permission. The record indicates that there was no denial of Claimant's absenteeism at the hearing.

Petitioner, as its basic position, asserts that Claimant was denied a fair trial by virtue of Carrier's failure to notify Claimant of the date of the trial. The record discloses that Carrier sent Claimant a Notice of Investigation, dated January 7, 1977, to attend an investigation on January 19th. That notice was sent by certified mail and received. On January 19th the hearing was convened and Claimant was not present. His representative requested, in writing, a one week's adjournment, which was granted. Subsequently this adjournment was confirmed in writing to all

concerned, including Claimant. Claimant did not appear at the rescheduled hearing, as indicated above. At no time in the course of either the hearing or the subsequent handling of this dispute on the property was the issue of improper notification raised by Petitioner. It is patently improper to raise such an issue at the late date of the submission to this Board.

There being no procedural issues of consequence, the only material question is that of substance; the evidence is quite clear that Claimant was guilty of an unauthorized absence. With respect to the penalty of dismissal, this Board has pointed out on numerous occasions, that in this industry in particular, gross absenteeism is highly disruptive to the proper operation of a railroad and on all counts is intolerable. For this reason we cannot question Carrier's determination of penalty. The Claim must be denied.

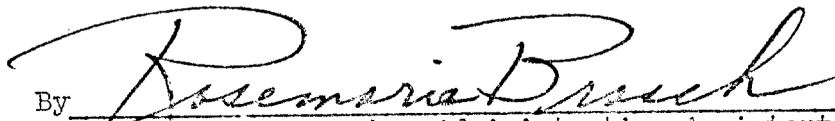
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 13th day of June, 1979.