

The Second Division consisted of the regular members and in addition Referee Higdon C. Roberts, Jr. when award was rendered.

Parties to Dispute: (System Federation No. 10, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Firemen & Oilers)
(Denver and Rio Grande Western Railroad Company

Dispute: Claim of Employees:

1. Under the current controlling Agreement, Mr. Charles A. Lucero, laborer, Denver, Colorado, was unjustly dealt with when dismissed from service of the Denver and Rio Grande Western Railroad Company, effective November 18, 1977.
2. That, accordingly, the Denver and Rio Grande Western Railroad Company be ordered to reinstate Mr. Charles A. Lucero to service with full seniority, payment for time lost including fringe benefits, and removal of record of same from his personal file.

Findings:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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.

It is a well-established tenet that an employer has the right to expect employees to report for work regularly and on time. Excessive absences and/or tardiness is, under the agreement and through long practice, basis for discipline up to and including discharge. The claimant was unquestionably guilty of such excessive absenteeism. He was unable to offer any evidence of "just cause" for his absences. He had been involved in an earlier investigation for the same problem. The carrier had attempted help through the employee assistance program, which the claimant had not completed. The carrier had also counseled and advised claimant on numerous occasions concerning his absenteeism.

The carrier has obviously expended considerable effort to correct claimant's behavior. Even so, there is no evidence of progressive discipline - suspension or a formal warning of potential discharge. I, therefore, find discharge an excessive penalty and order claimant reinstated with seniority unimpaired, but without compensation for time lost.

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Award No. 8343
Docket No. 8290
2-D&RGW-FO-'80

A W A R D

Claim sustained in accordance with the findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: ~~Executive~~ Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 21st day of May, 1980.