

The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers
{ Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That under the provisions of the current Agreement Electrician Daniel G. Shade was unjustly dismissed from the service of the Consolidated Rail Corporation (Conrail) effective August 1, 1980.
2. Accordingly, the Consolidated Rail Corporation (Conrail) be ordered to restore Electrician Daniel G. Shade to service with seniority and all other rights unimpaired and compensate him for all wages and benefits lost, account of the improper dismissal from service.

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 were given due notice of hearing thereon.

Claimant, Mr. D. G. Shade, worked for Carrier as an electrician at the Harrisburg Locomotive Terminal, Harrisburg, Pennsylvania. On July 22, 1980 he was notified to appear for a trial on the following charges:

"Excessive and unauthorized absenteeism at Harrisburg Terminal on the following dates:

July 10, 1980; July 11, 1980, July 12, 1980; July 13, 1980;
July 14, 1980; July 17, 1980; July 18, 1980; July 19, 1980;
July 20, 1980; July 20, 1980."

The trial was held on July 31, 1980 in the absence of Claimant who did not appear. On August 1, 1980 he was sent a notice of dismissal for excessive and unauthorized absenteeism by the Carrier. This case was appealed through all appropriate levels on property and subsequently brought to hearing before the National Railroad Adjustment Board.

The issue at stake in the instant case is whether Claimant's absence for 10 working days from July 10, 1980 to July 21, 1980 was authorized or if he was in contravention of Rule 8-I-2 of the controlling Agreement. This Rule states the following:

"An employee unable to report for work or detained from work for any cause will notify his shop or work location as soon as possible."

There is no indication in the information presented before this Board that Claimant was unable to report for work. If he was detained for cause it could only have been either because his absence on the days in question was authorized by the Carrier's Chairman and Chief Executive Officer, E. G. Jordan, as Claimant states in his letter to Shop Manager, I. W. Bonsall, which claim is irrefutably denied by Mr. Jordan, or it was because Claimant was detained because of "personal business". This Board has gone on record (Second Division Awards 775⁴ and 8323) to the effect that an excuse for "personal business", without further clarification, is not in itself sufficient to justify an absence. In this case this would not be an appropriate manner in which to operationalize the general language of Rule 8-I-2 which addresses "any cause" as a reason for an absence unless that cause meets the test of the principle elaborated by this Board in Award 775⁴. This Award states that it is "... well established by this Board ... that every employee has a duty and obligation to report timely for his assignment and to work all the hours of his assignment each and every (work) day ... unless his absence is validly justified and excused for good and sufficient reason such as illness, death of a family member or other matters which, in applying the rule of common sense and human understanding, would clearly justify his absence ... management is obliged to consider such requests and to grant them if they meet the criteria discussed above and conversely there is no obligation to grant such requests if they do not meet the criteria. However, just as ... (in this case, Rule 8-I-2) ... applies a test of reasonableness and cooperation upon management, it also requires that the employees truly have good and sufficient reasons for their request. A short unexplained request based upon 'personal business' does not meet the test -- it is too brief and too broad for management to objectively evaluate".

If, in fact, Claimant's request based on "personal business" did meet, or could have met, the test of the principle laid out in Award 775⁴, it was incumbent upon him, at the very least, to attend the trial in his own defense, or to postpone it or to tell his Organization representative in time, so that his representative could have called for a postponement of that trial. The Claimant did none of this.

The Board finds that sufficient substantial evidence, therefore, is present in the instant case to warrant that Claimant's absences were unauthorized and since these unauthorized absences persisted for 10 work days that they were, a fortiori, excessive. Excessive absenteeism, which may be defined in principle as that point, because of absences, when an employee becomes a liability rather than an asset to a Carrier, has not been sanctioned by prior Awards of this Board (See Second Division 6710, 7348 and 9158 inter alia) and a 10 day absence with no other reason on record except that Claimant did not protect his assign-

ment because of his "personal business" puts Claimant, in the mind of the Board, well within the perimeters of excessive absenteeism as defined above. This, plus Claimant's prior record convinces the Board that the Carrier's determination in this matter should not be disturbed.

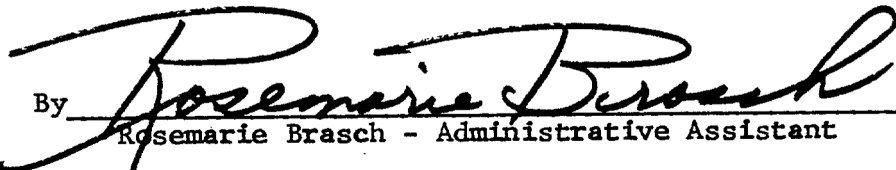
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 2nd day of February, 1983.