

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

Parties to Dispute: { International Brotherhood of Firemen and Oilers
{ Consolidated Rail Corporation

Dispute: Claim of Employes:

1. That, in violation of the current agreement, Laborer Robert M. Garman was unjustly dismissed from service of the Carrier following trial held on June 30, 1980.
2. That, accordingly, the Carrier be ordered to make the aforementioned Robert M. Garman whole by restoring him to Carrier's service with seniority rights unimpaired, made whole for all vacation rights, holidays, sick leave benefits, and all other benefits that are a condition of employment unimpaired, and compensated for all lost time plus ten (10%) percent interest annually on all lost wages, also reimbursement for all losses sustained account of coverage under health and welfare and life insurance agreements during the time he has been held out of 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 waived right of appearance at hearing thereon.

Robert M. Garman is a laborer assigned to the Carrier's Hollidaysburg, Pennsylvania, Car Shop with about six years of service. On June 9, 1980, he was given notice to attend a trial in connection with the charge he was absent on June 4, 5, 6, 1980, and did not report off. Secondly, those absences were specifically without permission. As a result of the trial, the Claimant was dismissed from service effective July 11, 1980.

The clear and uncontroverted facts established at the trial confirm the Claimant came in to pick up his check on June 3, 1980. He had been absent several days prior to the Third. In the Superintendent's office, he was questioned about his absences and specifically instructed to come to work the next day. At the trial, the Claimant acknowledged outside problems and stated he had no initiative.

The Organization argues the trial was neither fair nor impartial. This position is based upon the testimony of a witness not identified at the start of proceedings and the admission of past occurrences. This Board takes a contrary view. In all aspects, we view the transcript of the trial to confirm Claimant was provided with every procedural right. The evidence, without contradiction, fully supports the Carrier's action. Considering the Claimant's prior record of discipline, the decision to dismiss him cannot be said to be harsh or arbitrary.

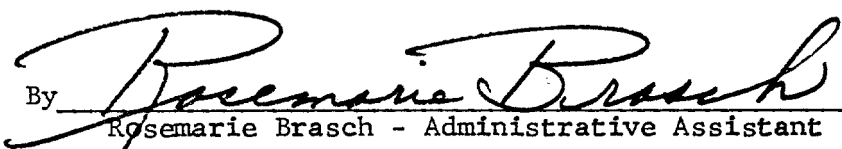
A W A R D

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 4th day of May, 1983.