

The Second Division consisted of the regular members and in addition Referee T. Page Sharp when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(National Railroad Passenger Corporation (AMTRAK))

Dispute: Claim of Employees:

1. That the National Railroad Passenger Corporation (AMTRAK) is violative of Rule 23 of the September 1, 1975 controlling agreement and has unjustly dealt with and damaged Electrician Thomas Buccheri at Kansas City, Missouri when they assessed discipline of dismissal by Notice dated May 25, 1984.

2. That accordingly, the National Railroad Passenger Corporation (AMTRAK) be ordered to immediately return Electrician Thomas Buccheri to service compensating him from the date of dismissal and continuous as follows: (a) For all time lost until returned to service; (b) Returned to service with seniority rights unimpaired; (c) Made whole for all vacation rights unimpaired; (d) Made whole for pension benefits including Railroad Retirement and Unemployment Insurance; (e) Made whole for actual loss of payment for all health and welfare and insurance benefits on his actual loss of payment for all health and welfare and insurance benefits on his dependents and himself; (f) Made whole for any other benefits that he would have earned during the time withhold from service; (g) Paid an additional 6% annum compounded annually on the anniversary date of said claim; and, further any record of this investigation and disciplinary action be removed from his personal record 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 employes 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, Thomas Buccheri, was an Electrician in the service of Carrier in Kansas City, Missouri on May 1, 1984, when his conduct on that date led to charges against him which read in pertinent part:

"You are charged with failure to meet train number 3 and perform your duties as Electrician on 1 May, 1984, thereby violating Rules K and L of the National Railroad Passenger Corporation Rules of Conduct".

As a result of the evidence adduced at the Investigation and on the basis of this and his past record, the Claimant was dismissed from the service of Carrier.

Part of Claimant's duties during his trick is to meet incoming trains and tend to any necessary electrical work that needs doing. On the night in question it is uncontroverted that he failed to meet Train 3. A Supervisor testified that the red lights were lit on two baggage cars and were obstructing the Engineer's view. The situation of the lights went unattended.

A Supervisor testified that Train Number 3 had arrived on time. It had departed with the aforementioned problem unchanged. After the departure the Supervisor went searching for the Claimant. He found the Claimant in another train. Because Claimant had missed the train the charges were brought.

The Claimant admitted that he had missed the train. He stated that he was waiting for Train Number 3 to arrive and was seated in the train on which the Supervisor had found him. He also stated that he had gone onto this train because he thought some unauthorized people had entered it. Claimant stated that he had heard Train Number 3 enter the station, but that he had thought it was a freight train. His uncontroverted evidence was that both his shift time and the schedule of Train Number 3 had been recently changed.

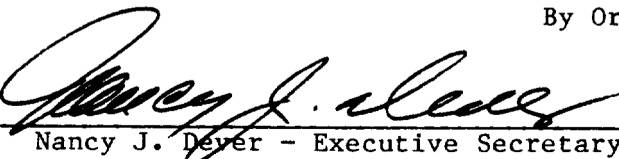
There can be no doubt that the charges were literally proved. The Carrier expects its employees to pay attention to their duties and perform them in a prompt and reasonable manner. While the Claimant's excuses for lack of performance are not outrageous, they are not satisfactory reasons for failure to perform. Particularly is this so in view of a very unsatisfactory disciplinary record. Nevertheless, this Board does not think that the discipline is appropriate even in the light of Claimant's background. We find that time out of service is adequate for this infraction. Therefore, we will reinstate the Claimant with all rights unimpaired, but without compensation for time lost.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 21st day of May 1986.