

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers  
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. That in violation of the governing Agreement the Burlington Northern Railroad Company failed to allow Electrician J. L. Hanson the fair and impartial investigation that is required by the Agreement. Following the investigation, the Burlington Northern Railroad Company unjustly made an entry of censure on Mr. Hanson's personal record and suspended him from service for a period of five (5) days.

2. That accordingly, the Burlington Northern Railroad Company should be instructed to remove the entry of censure from Electrician Hanson's personal record and to compensate him for the five (5) days he was suspended; he should also be made whole for any other loss(s) he sustained because of the investigation or suspension such as, but not limited to, lost vacation, insurances, Railroad Retirement, etc."

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 waived right of appearance at hearing thereon.

The record shows that Claimant was employed by the Carrier as an Electrician at its Alliance, Nebraska, facility and has been regularly employed at such facility since May of 1981.

The contention is made that Claimant became ill at home during the evening hours of September 26, 1987, that he attempted to lay off sick, but the telephone line was busy.

Form 1  
Page 2

Award No. 11816  
Docket No. 11632  
90-2-88-2-163

Following an Investigation on October 5, 1987, Claimant was assessed discipline of five days suspension.

Based on the entire record in this dispute, the Board finds that the suspension of five days was unsupported, and the Claim will be sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:   
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 24th day of January 1990.

CARRIER MEMBERS' DISSENT  
TO  
AWARD 11816, DOCKET 11632  
(Referee Carter)

The charge made against the Claimant was:

"...your alleged failure to comply with instructions from proper authority to properly absent yourself from duty prior to 11:00 p.m. on September 26, 1987 while you were assigned as electrician at the Alliance Diesel Pit, Alliance, Nebraska."

In the on-property hearing, Claimant testified as follows:

"Q. Mr. Hanson, Rule 570 reads:

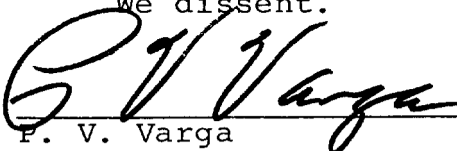
'Employees must report for duty at the designated time and place. They must be alert, attentive and devote themselves exclusively to the Company's service while on duty. They must not absent themselves from duty, exchange duties with or substitute others in their place without proper authority.'


Did you comply with that rule?


A. No sir. I was not at work at the designated time."

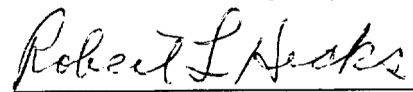
Elimination of the assessed discipline in this case is not supported by the record. Guilt was admitted.

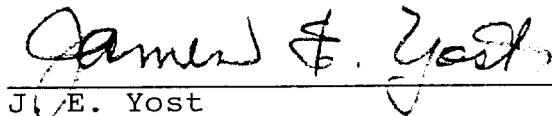
We dissent.

  
P. V. Varga

  
M. W. Fingerhut

  
M. C. Lesnik

  
R. L. Hicks

  
J. E. Yost