

Award No. 4727
Docket No. 4631
2-IC-CM-'65

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement Carman Joseph B. Plebanski was unjustly suspended from the service of the Illinois Central Railroad for a 30-day period beginning February 7, 1963, ending March 8, 1963.

2. That accordingly the Illinois Central Railroad be ordered to compensate Carman Joseph B. Plebanski for all time lost account of the aforesaid unjust suspension.

EMPLOYEES' STATEMENT OF FACTS: Carman Joseph B. Plebanski, hereinafter referred to as the claimant, entered the service of the Illinois Central Railroad, hereinafter referred to as the carrier, in the year 1953. At the time of the incident giving rise to the instant claim, claimant was regularly employed by carrier as a carman in its Burnside Shop, Chicago, Illinois with assigned hours and work week of 7:45 A. M. to 4:15 P. M. Monday through Friday, rest days Saturday and Sunday.

On Tuesday, February 5, 1963, carrier's shop superintendent, L. R. Barron, addressed the following letter to claimant:

"February 5, 1963

110448

Mr. J. B. Plebanski
8227 Commercial
Chicago, Illinois

Dear Sir:

You will arrange to be present at a formal investigation to be held in the Shop Superintendent's Office at Burnside Shop at 8:00 A. M. February 6, 1963.

In view of the necessity to impose discipline upon Claimant Plebanski, for his disregard of the company rules, the assessment of a 30-day suspension was entirely proper and it was extremely mild under the circumstances. He could have been discharged from the service for his flagrant disregard of the rules.

The board should, therefore, dismiss or deny the union's claim because the discipline was justified.

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.

The claimant insisted that he could properly absent himself from work "without first obtaining permission from his foreman if possible," which Rule 23 forbids him to do. But he also testified that there was no time to get in touch with his foreman and no way he could have reached him, which if true meant that it was not possible for him to comply with the rule.

He was not asked, and did not state, when his son's illness first indicated the necessity of his absence, or why, between that time and the start of his shift, he could not have contacted his foreman by telephone or otherwise for permission to be absent.

But there is no evidence to question or dispute his statements, or to show that it was possible for him to have contacted his foreman after the necessity for his absence became apparent.

In this state of the record the claim must be sustained.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 21st day of May, 1965.