

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISIONAward No. 7099  
Docket No. 6782  
2-BN-CM-'76

The Second Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

Parties to Dispute: ( System Federation No. 7, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Carmen)  
(  
( Burlington Northern Inc.

Dispute: Claim of Employees:

1. That Havre Carman K. C. Sargent was unjustly treated and the provisions of the current Agreement were violated when he was suspended from service for a period of five (5) days, August 23 through August 27, 1973, and a mark of censure was placed on his personal record.
2. That accordingly the Burlington-Northern, Inc. be ordered to compensate K. C. Sargent for five (5) days time for August 23-27, 1973, inclusive, in the amount he lost in wages during that period due to suspension from service. Further, that the Burlington-Northern be ordered to remove the mark of censure from Carman K. C. Sargent's personal record.

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 facts giving rise to the instant claim are as follows. On July 30, 1973, the claimant failed to report for his 11:00 P.M. to 7:00 A.M. assignment as a carman at Havre, Montana. Claimant did not have permission to be absent from duty however. Following a hearing held on August 10, 1973, an entry of censure was placed on claimant's personal record and he was suspended from service for a period of 5 days due to his alleged violation of Rule 665 of Carrier's Safety Rules.

The facts of record compels this Board to conclude that the charge preferred against claimant was supported by substantive evidence. He admittedly failed to report for his assigned tour of duty on July 30, 1973. It thus became incumbent on him to proffer a credible reason for not reporting. Claimant failed to do so, and the 5 day suspension given him was warranted as a result.

Form 1  
Page 2

Award No. 7099  
Docket No. 6782  
2-BN-CM-'76

Claimant was accorded a fair and impartial hearing. The charge against him has been proven by substantive evidence. And the 5 day suspension was justified. Accordingly, the claim lacks support and it must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of July, 1976.