

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

Parties to Dispute: (System Federation No. 97, Railway Employees'
(Department, A. F. of L. - C. I.O.
((Electrical Workers)
(
(Atchison, Topeka and Santa Fe Railway Company

Dispute: Claim of Employees:

- (1) That the Carrier erred and violated the contractual rights of Melvin Koen when they removed him from service on November 21, 1975.
- (2) That, therefore, Mr. Koen be returned to service with all rights, privileges and benefits restored.
- (3) That he be made whole for all health and welfare benefits, pension benefits, unemployment and sickness benefits and any other benefits he would have earned had he not been removed from service.
- (4) Further, that he be compensated for all lost time, including overtime and holiday pay and that such lost time be counted as vacation qualifying time.

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 was an electrician with relatively short service at carrier's coach yards in Chicago who was charged with violation of Rule 32-G of the General Rules for the Guidance of Employees, 1975 Edition, commonly known as Form 2626 Standard which invokes the imposition of demerits and credits for offenses of a lesser nature such as absence and lateness and other offenses. Credits earned result in reducing the demerits outstanding for good attendance, perfect record or unusual service during a specified time frame. Here we deal with offenses involving

attendance. It is uncontested that Claimant accumulated 60 demerits which subjected him to dismissal. Prior to such accumulation he was advised by a supervisor that should his record reach 60 demerits he would face dismissal. The organization bases its claim here on questions regarding the validity of the Brown System. There is no claim here that claimant was deprived of a proper hearing under Rule 40 of the applicable agreement. Such a hearing was held and claimant's dismissal was confirmed.

In sum, the organization contends the Rule 32-G is an ex parte rule promulgated by the carrier and the only rule that can be invoked to impose discipline is Rule 40 which provides for an impartial and fair investigation. It also requires he shall be apprised of the precise nature of the charge in advance, among other rights. That rule need not be quoted here.

A quarter of a century ago the Brown System was upheld by this Division as a reasonable method to provide rules for discipline by management. Award 1820 (Wenke). Moreover, these same parties dealing with the same contract provisions came to this Board with the same question in Award 6382 (Bergman). The claim was denied in that case and this Board indicated approval of the Brown System of Discipline by Record. The system goes back to 1923 and it was tested and fully discussed in other Second Division Awards.

The claimant was treated as any other employee under these rules. We have no basis for reaching a conclusion contrary to Award 6382. These rules are reasonable. They were applied fairly. The claimant is a victim of his own conduct. It was appropriate for carrier to review his entire record once it was determined he was subject to penalty. Once that was done fairly there could be no suggestion that claimant's poor record merits consideration and that carrier acted improperly in ordering his dismissal. The contract was not violated.

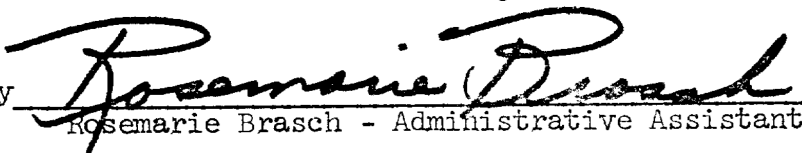
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of April, 1978.