

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. 162, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Carmen)  
( Southern Pacific Transportation Company

Dispute: Claim of Employees:

1. That the Southern Pacific Transportation Company (T&L Lines) violated the controlling agreement, particularly Rule 34, when they unjustly dismissed Carman A. R. Hickerson from service March 5, 1976.
2. That accordingly, the Southern Pacific Transportation Company (T&L Lines) be ordered to reinstate Carman Hickerson to service with all seniority rights and be compensated for all time lost commencing March 5, 1976.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Claimant, a Carman at Carrier's Houston Yard, was discharged following a hearing where he appeared under the charge of devoting time to other than his assigned duties by being absent from his assignment and being found in the locker room changing clothes at 3:10 p.m., Friday, February 20, 1976.

We find more than substantial evidence establishing the charge against claimant. There is no question but that Claimant left his assignment early and was in the process of changing clothes in the locker room, planning an early departure from work, when he was caught.

Employees should be cautioned that they are expected to report on time for their assignment and work all the hours thereof unless validly excused. Claimant's previous record indicates that he had been warned and disciplined, for similar infractions in the past and that consequently, he knew or should have known the consequences of such repeated conduct.

We do note that in the past year prior to Claimant's discharge, his behavior has improved and it seemed that for a considerable period, he was taking his employment responsibilities more seriously. On this basis, we believe that the discipline assessed here has now served its purpose and we will accordingly reinstate him, without pay for time lost, hoping that he has now learned a valuable lesson. We emphasize to Claimant that any such repeated conduct, if proven, could be grounds for permanent dismissal, since we believe that Carrier's record of progressive discipline has about run its course.

A W A R D

Claimant reinstated without pay for time lost.

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 23rd day of June, 1978.