

The Second Division consisted of the regular members and in addition Referee Robert G. Williams when award was rendered.

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

Claim in behalf of Machinist C. T. Baxter for the pro rata rate of pay for time lost as assessed by Superintendent P. L. Tucker beginning June 8, 1975, and the applicable punitive rate of pay for all overtime for which he would have been available plus the prime interest rate until the claim is settled. Claim filed under Rule 32 of the Agreement for Carrier's violation of Rule 17.

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.

This is an appeal from a thirty (30) day disciplinary suspension assessed Claimant in connection with his alleged failure to comply with instructions from his foreman and an act of insubordination which occurred on June 8, 1975.

We find there to be substantial evidence in the record establishing the charge against Claimant. Foreman Woodard's direct testimony concerning this incident was corroborated by Mechanical Superintendent McCaddon. It is clear that claimant resisted his Foreman's orders to move his personal automobile to the proper parking area and, under the guise of illness, went home rather than obeying the Foreman's instructions. Thus, a prima facie case of insubordination was established.

Form 1
Page 2

Award No. 7644
Docket No. 7363
2-MP-MA-'78

Further, we do not think the discipline assessed, thirty days, was excessive under the circumstances.

Since we have considered the merits of this case and found them unsubstantiated, it is not necessary that we consider the procedural issues in this case. (Second Division Award 4820).

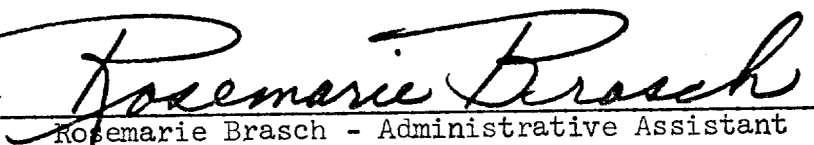
A W A R D

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 4th day of August, 1978.