

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

Parties to Dispute: (Railway Employees' Department
(A. F. of L. - C. I.O.
((Carmen)
(
(Pacific Fruit Express Company

Dispute: Claim of Employees:

1. That the Carrier violated the controlling Agreement when it unjustly and improperly dismissed Carman-Painter Leonard R. Arvizu on March 29, 1976 following investigation held March 18, 1976.
2. That, accordingly, the Carrier be ordered to restore Carmen-Painter Leonard R. Arvizu to service with all seniority rights, vacation rights, and all other benefits that are a condition of employment unimpaired and with compensation for all time lost plus 6% annual interest. Also reimbursement for all losses sustained account loss of coverage under Health and Welfare and Life Insurance Agreements during time held out of service.

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 employees 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.

By letter dated March 29, 1976, Claimant was advised by letter that he was discharged from Carrier's service as a result of a hearing held on March 18, 1976 where he appeared under the charge of excessive absenteeism.

We find this dispute to be without merit for both procedural and substantive reasons. Firstly, concerning the substantive appeal of the claim, we find that Claimant was afforded a fair and impartial hearing and that he was responsible for excessive absenteeism over a several month

period preceding the hearing. We have repeatedly recognized the seriousness of excessive absenteeism in this industry, and will not fault management when it takes effective measures to control it. Claimant here was repeatedly tardy and/or absent from his assignment, and several previous warnings from his supervisors apparently had fallen on deaf ears. Further, the record shows that on May 6, 1974, he was reinstated to service on a leniency basis after being discharged for the very same repeated offense - excessive absenteeism. Given all the foregoing, we conclude that management has been more than patient and lenient with Claimant. Consequently, we find his dismissal from service totally justified.

Having reached the conclusion that the claim is without merit, it is unnecessary that a determination be made on Carrier's procedural complaint. See Second Division Award No. 4820.

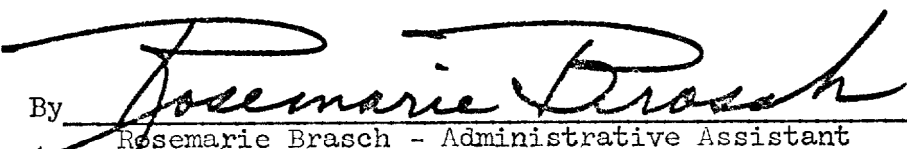
A W A R D

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 15th day of August, 1978.