

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute: (System Federation No. 1, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That under the current agreement, Electrician J. J. Massaro was unjustly treated when he was dismissed from the service of the Carrier on November 30, 1976.
2. That, accordingly, the Carrier be ordered to reinstate Electrician J. J. Massaro to his former position with all seniority rights unimpaired, vacation rights, sick leave benefits and all other benefits that are a condition of employment unimpaired and compensated for all lost time plus 6% annual interest on all such lost wages, also reimbursement for all losses sustained account loss of coverage of health and welfare and life insurance agreements during the 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.

Dismissal of Claimant on November 30, 1976 followed a hearing on November 3, 1976 which was held on the charge that Claimant had "continuous unauthorized absences" from July 26, 1976 to October 25, 1976. The Claimant was issued constructive notice of such hearing but failed to appear and further did not contact his authorized representative. An appeal hearing was held December 20, 1976 at which time the Claimant again failed to present himself.

The Organization contends that burden is on the Carrier to prove its charges -- that the Claimant had unauthorized absences for the period involved, that such proof was not advanced at the November 3, 1976 hearing

and that such hearing was perfunctory. The Organization cites the fact that the Claimant was serving a thirty-day suspension during part of the time he was charged with being absent.

While the November 3, 1976 hearing may have been summary in nature, there is nothing to indicate that the Carrier did not meet its obligation of citing a charge properly. The Claimant cannot be excused from exercising reasonable effort to refute such charges and to protect his rights; he did neither. His disinclination to present himself or otherwise provide information relative to his status at the appeal hearing on December 20, 1976 must be viewed as a further lack of interest by the Claimant in his position.

The record supports the Carrier's action in this regard.

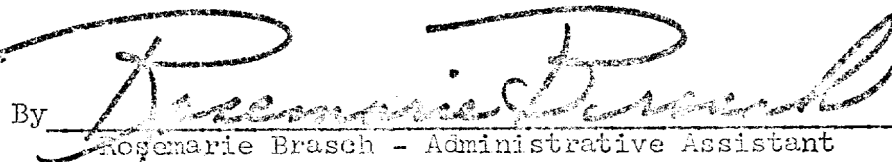
A W A R D

Claim is dismissed.

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 29th day of November, 1978.