

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. 4, Railway Employees'
(Department, A. F. of L. - C. I.O.
((Carmen)
(
(Richmond, Fredericksburg and Potomac Railroad Company

Dispute: Claim of Employee:

1. That Carman-Tentative, Thomas McGuin was unjustly dismissed from service as result of investigation held in the office of the Master Mechanic at 9:00a.m., Wednesday, August 25, 1976 in violation of Shop Crafts Rule No. 34.
2. Accordingly, Carman-Tentative, Thomas McGuin is entitled to be restored to service with seniority rights unimpaired, paid for all time lost, all vacation and insurance and hospitalization rights and all other rights accruing to employees in service, in lieu of such excessive discipline.

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 were given due notice of hearing thereon.

Claimant, a Carman-Tentative was notified of an investigation and hearing on August 26, 1976 relative to charges issued against him for excessive absenteeism. The record indicates the Claimant received such notification; however, he neither appeared for the hearing nor did he request a postponement, either to the Carrier or through the Organization. He was reported off sick during this period. By letter dated September 7, 1976, he was terminated effective that date. A subsequent appeal and on offering of explanation by the Organization that he was "very sick" on the day of the investigation and "suffered from a severe asthma condition" were rejected by the Carrier.

We find nothing in the record to suggest that the Claimant was not afforded a fair or proper opportunity to answer the charges raised against him. Nothing was adduced to support contentions that the Claimant had requested an extension to a future date for the hearing or otherwise took any action to protect his right to a continuation of employment. Subsequent unsubstantiated assertions of the grievant's status by the Organization have no force and effect here and we are obliged to hold that the Carrier implemented a properly notified action, in which the Claimant was afforded an opportunity upon which the Claimant failed to capitalize.

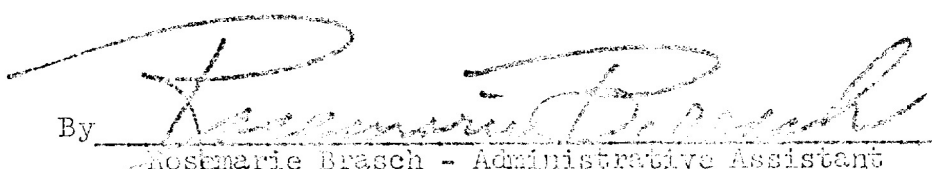
A W A R D

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosmarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 10th day of January, 1979.