

The Second Division consisted of the regular members and in addition Referee Bernard Cushman when award was rendered.

Parties to Dispute: { System Federation No. 109, Railway Employees'  
Department, A. F. of L. - C. I. O.  
(Carmen)  
{ Consolidated Rail Corporation

Dispute: Claim of Employees:

- (a) That the Carrier violated the controlling agreement when on November 24, 1976, it assessed five days actual suspension, November 29, 30, December 1, 2, 3, 1976, to Welder Desmond A. Donovan, ConRail Repair Facility, Reading, Pennsylvania, as a result of a hearing and investigation conducted on November 11, 1976.
- (b) That accordingly the Carrier be ordered to compensate Welder Desmond A. Donovan the five days actual suspension as well as any other compensation the Claimant would have earned during the five day period he was serving his discipline; and further that the Carrier remove all record of this discipline and that the Claimant's service record be restored unimpaired.

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.

The Claimant, Desmond A. Donovan, was employed by the Carrier on May 5, 1974 and at the times relevant to this dispute was employed as a Welder at the ConRail Repair Shops at Reading, Pennsylvania. By letter dated November 3, 1976, the Claimant was notified to attend a Hearing and Investigation on November 10, 1976. The Hearing and Investigation related to the Claimant's absences from work and tardiness and took place on November 15, 1976. Thereafter, the Claimant was given a five day actual suspension by the Carrier.

The November 3 notice provided as follows:

"In accordance with Rule 34 of the former Agreement between Reading Company and System Federation No. 109, B.R.C. of U.S. & Canada, you are hereby notified to present yourself for hearing and investigation in connection with your attendance record from July 6, 1976 through November 1, 1976, to determine your responsibility, if any, in this matter.

The Organization contends that the hearing notice did not meet the precision required by Rule 34. Rule 34 provides, so far as pertinent:

"No employee shall be disciplined without a fair hearing by designated officer of the Carrier. Suspension, in proper cases pending a hearing, which shall be prompt, shall not be deemed a violation of this rule. At a reasonable time prior to the hearing, such employee and his duly authorized representative will be apprised in writing of the precise charge and given reasonable opportunity to secure the presence of necessary witnesses. An employee shall be given a letter stating the cause of any discipline administered; if suspended, the suspension shall date from the time taken out of service. If it is found that an employee has been unjustly suspended or dismissed from the service, such employee shall be reinstated with his seniority rights unimpaired, and compensated for the wages lost, if any, resulting from said suspension or dismissal, such loss being the difference between the amount earned if otherwise employed and the amount he would have earned in his regular assignment."

Our review of the record shows that the Claimant had adequate notice of the matters which were to be investigated and our review shows further that the record of the hearing abundantly supports the Carrier's finding that Rule 22 was not complied with and the absences with which the Claimant was charged in fact took place. The record shows that the Claimant did not notify his Foreman of impending absence or delays as early as possible and that many of the absences were not for valid reasons. "Family business", "lawyer's appointment", "forgetting to set the alarm clock", are not good and sufficient reasons for unauthorized absence or tardiness. It is clear from the record that the Claimant fully understood that the notice was charging him with excessive absenteeism and undue tardiness and that he was adequately notified since each absence and tardiness was specifically noted in the Notice of Investigation and Hearing. There was no showing that the five day suspension was excessive or arbitrary or inappropriate on the facts of this record.

The claim is, therefore, denied.

Form 1  
Page 3

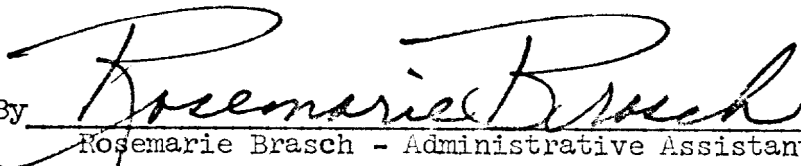
Award No. 8101  
Docket No. 7898  
2-CR-CM-'79

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 27th day of September, 1979.