

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: { System Federation No. 7, Railway Employees'
Department, A. F. of L. - C. I. O.
(Firemen & Oilers)
Burlington Northern Inc.

Dispute: Claim of Employee:

1. Under the current controlling Agreement, Mr. A. R. Walker, car laborer, North Kansas City, Missouri, was unjustly dealt with when dismissed from service of the Burlington Northern, Inc., effective September 30, 1977.
2. That, accordingly, the Burlington Northern, Inc. be ordered to reinstate Mr. A. R. Walker to service with seniority rights unimpaired; with payment for all time lost, credit for fringe benefits and reference to this incident stricken from his record.

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.

Claimant was hired by the Carrier on July 16, 1976. During the period from August 17 to August 28, 1977, he failed to report for work as scheduled and did not request permission to absent himself. He did telephone his supervisor twice during this period, but in each case indicated that he would report for work the following scheduled work day; while stating that he was ill, he did not request permission to be absent.

He failed to appear at the investigative hearing provided for him. The hearing proceeded, after a reasonable delay, and was conducted in a fair manner. He was thereafter dismissed from service on September 30, 1977.

Subsequent to the hearing and the Claimant's dismissal, the Organization supplied a physician's statement alleging that the Claimant was disabled so as to prevent him from working during the period of his absence. To be

effective, such evidence should have been produced at the investigative hearing. Even if the physician's note is taken into account, it does not address to the Claimant's principal wrongdoing -- his failure to notify the Carrier in advance and/or during the period of his absence. No evidence was presented that he was unable to do so if he so desired.

Under the circumstances, the Board finds no basis to question the disciplinary penalty imposed by the Carrier.

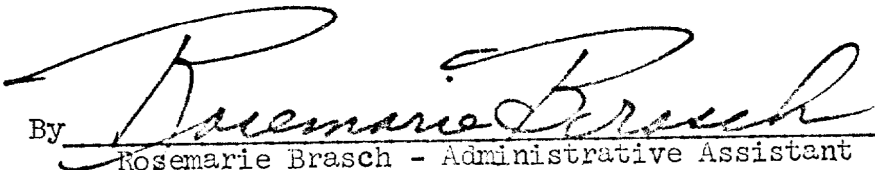
A W A R D

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.