

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

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

Dispute: Claim of Employee:

1. That in violation of the current agreement, the Burlington Northern Inc., arbitrarily, capriciously and unjustly dismissed Electrician Apprentice Melvin E. Baker from its service on date of March 17, 1978.
2. That accordingly, the Burlington Northern Inc., be ordered to return Electrician Apprentice Melvin E. Baker to its service and to compensate him for all time lost, together with restoration of any lost vacation time, holidays, sick pay or hospitalization benefits Railroad Retirement benefits and, any other rights, privileges or benefits to which he may be entitled under schedules, rules, agreements or laws and that the record of investigation and subsequent dismissal be removed from his personal record.

Claim to start on date of February 11, 1978, and to continue until adjusted.

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, Mr. M. E. Baker, was discharged from the service of the Carrier on March 17, 1978, following a hearing conducted on March 1, 1978. The notice of hearing in pertinent part reads as follows:

"For the purpose of ascertaining the facts and determining your responsibility in connection with absenting yourself from duty without proper authority, striking and threatening your supervisor, damaging company property and your alleged violation of Rule G at Vancouver, Washington, about 4:15 p.m., February 16, 1978."

At the outset the organization alleged certain technical and procedural defects with respect to the charges and conduct of the hearing all of which were reviewed by this Board and found without merit.

The record is quite complete with respect to the actions and events which transpired on the date under review. For the purpose of this award, it is not necessary to elaborate in great detail. A brief review of the Claimant's testimony will serve to indicate the Board's assessment of the penalty invoked.

Mr. Baker testified on the record as follows:

That he was absent from work for the first twenty-five minutes of his shift because he overslept and his motor cycle wouldn't start. That approximately two hours before he was to report for duty he indulged in the use of intoxicating beverages which he characterized as three or four beers.

That he engaged in a verbal altercation with the Foreman shortly after arriving at work over a questioned use of the coffee machine because he felt he was being harrassed. This led to further discussion in the General Foreman's office.

That in the General Foreman's office he cussed a lot and threatened the Foreman and General Foreman but did not strike anyone. (Two witnesses testified that he did strike the General Foreman.)

That he ripped the phone cord from the connection to stop the supervisors from calling the police.

The record is more elaborate in describing these actions but no useful purpose would be served by more graphic description.

It is obvious from the foregoing and the entire record that the rules as described in the notice of dismissal were violated. These rules are contained in the record and are so well known and understood by railroad men that they need not be repeated here.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By 
Rosamerie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 27th day of September, 1979.