

The Second Division consisted of the regular members and in addition Referee Higdon C. Roberts, 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. Robertson, laborer, Havre, Montana, was unjustly dealt with when dismissed from service of the Burlington Northern, Inc. on April 18, 1978.
2. That, accordingly, the Burlington Northern, Inc. be ordered to reinstate Mr. B. G. Robertson to service with all seniority rights unimpaired, payment for all time lost including fringe benefits, and the mark removed from his personal 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.

It is quite possible for anyone to be "unavoidably detained" in jail or similar circumstances, and be innocent. It follows, then, that such absence from work, under certain circumstances, does not automatically indicate "excessive absence" and therefore, a basis for discipline. This case, however, lacks the mitigating circumstances.

The claimant's father may have notified supervision of his son's absence, however, there is no evidence in support of this contention offered by the organization. Further, the organization never implied that the father requested an "excused absence".

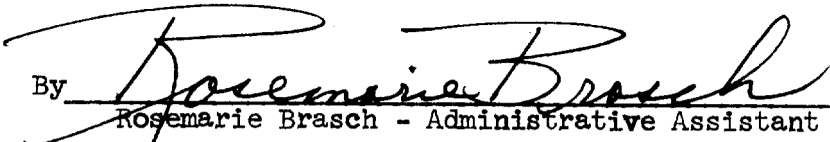
Our review of the record indicates that none of Claimant's substantive or procedural rights were violated and that he was accorded a fair and impartial hearing. There is no basis for us to disturb Carrier's discipline.

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 21st day of May, 1980.