

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

Parties to Dispute: (System Federation No. 91, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

1. That Carman Helper James Rockett was dismissed from service in violation of the current agreement on June 30, 1977, and
2. Accordingly, the Louisville and Nashville Railroad should be ordered to
 - (a) Restore him to service with seniority and all employee rights unimpaired.
 - (b) Compensate him for all time lost as a result of his dismissal with interest at the rate of 6% per annum on all money due him, and
 - (c) Pay premiums for his hospital, surgical, medical, group life insurance and supplemental sickness benefits for the entire time he is withheld from service.

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 waived right of appearance at hearing thereon.

Claimant was dismissed on June 30, 1977 on the grounds of excessive absenteeism and tardiness, after being in Carrier's employ for approximately 10 months. During the first seven months of his employment, Claimant was absent or tardy about 30 percent of his regularly assigned workdays.

Supervision had twice met with Claimant in the present of the Organization's Local Chairman and counseled Claimant on his attendance record, advising him of the necessity to improve his attendance. His immediate supervisor had also talked to him informally concerning his lateness and absences. Although Claimant

promised to do better, his record showed little improvement; in the month following the second meeting with supervision he was absent or late on 11 days.

Although Claimant complained of back problems, a medical examination disclosed that he was physically able to perform his work. He admitted during the hearing that his attendance record was "deplorable".

Although Petitioner charged that Claimant had not received a fair and impartial hearing, we find on the basis of the record before us that such charge was not substantiated.

Claimant was warned on several occasions, formally and informally, to better his attendance record. The number and frequency of his absences and tardiness during his relatively short period of employment with this Carrier indicate a flagrant disregard of the duty of regular attendance. He was given an opportunity to correct his ways, but he continued to be unreliable in reporting for work on time, much less report at all. The record clearly warranted the Carrier's terminating Claimant's service and dismissing him for excessive absenteeism and tardiness, and we will so rule.

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 23rd day of July, 1980.