

The Second Division consisted of the regular members and in addition Referee David H. Brown when award was rendered.

Parties to Dispute: { International Association of Machinists and
 { Aerospace Workers
 {
 { Alton and Southern Railway Company

Dispute: Claim of Employees:

1. That under the terms of the Agreement, Machinist, Gary M. Stephens was unjustly suspended from the service of The Alton and Southern Railway Company for a period of thirty (30) days beginning on the date of November 9, 1977, and ending on the date of December 8, 1977.
2. That accordingly The Alton and Southern Railway Company be ordered to compensate Machinist, Gary M. Stephens in the amount of eight (8) hours at the pro rata rate for each day of his work week assignment beginning on the date of November 9, 1977, through the date of December 8, 1977.
3. And, further, The Alton and Southern Railway Company remove all written records to this investigation and suspension from Machinist, Gary M. Stephen's service 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.

At all pertinent times Gary M. Stephens was regularly employed as a machinist at Carrier's locomotive shop in East St. Louis, Illinois, with regularly assigned work week Monday through Friday 11:00 P.M. to 7:00 A.M., third shift, rest days Saturday and Sunday.

At about 10:30 P.M. on October 27, 1977, Claimant telephoned Combination Foreman Dennis Korando and advised him that he would be about an hour late, requesting Korando to see if he could get the machinist on duty to cover for him. Korando "told him that there would be no problem, it would be okay". Claimant requested the delay in reporting because his mother had started to have chest pains. Claimant was the only one living with his mother and was concerned

about leaving her until other arrangements could be made or her condition stabilized. Instead, her condition worsened until it was decided she should be hospitalized. This decision was made between 11:00 and 11:15 P.M., and Claimant then had his mother admitted to the hospital. At 12:20 A.M. Claimant made the first of four telephone calls to notify Car Foreman Jack Nooney that he would be unable to protect his assignment. The telephone at the shop was not answered until 6:30 A.M., at which time he advised Mr. Nooney of the reason for his absence. Claimant had remained at the hospital with his mother, feeling that her condition demanded his presence.

Formal investigation was held on November 4, 1977, "to develop the facts and place (Claimant's) responsibility, if any, in connection with ... failure to protect your assignment at 11:00 P.M., October 27, 1977." As a result of such investigation Claimant received 30 days actual suspension for failure to protect his assignment as charged.

We have carefully reviewed the transcript of such investigation and the entire record and must conclude that while Claimant did fail to protect his assignment, the circumstances were totally exonerative. His absence from work was justified; his efforts to contact Carrier, under the circumstances, were sufficient.

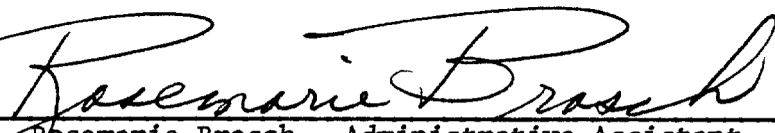
A W A R D

Claim sustained.

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 5th day of November, 1980.