

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute: { International Brotherhood of Firemen and Oilers
 { Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That Laborer Robert Taylor was unjustly dismissed from service on January 16, 1979.
2. That accordingly, the Missouri Pacific Railroad be ordered to reinstate Laborer Robert Taylor to service immediately, with pay for all time lost, plus 6% annual interest, restoration of full seniority rights, vacation rights, and all other benefits that are a condition of employment. Also, reimbursement of all losses sustained account loss of coverage under Health and Welfare and Life Insurance Agreements during the time held out of 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 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 record of this case shows on January 1, 1979, the Claimant left his assignment as a Laborer without permission or explanation and did not return. By letter dated January 9, 1979, the Claimant was notified to report for an investigation on January 16 on such unacceptable action; receipt of the Notice was taken by a Bertha Taylor on January 11, 1979. The Claimant failed to appear at the investigation on January 16, 1979, and except to file the claim in this case, has offered no indication as to the basis for his absence.

We are satisfied that the Carrier met its obligations to notify the Claimant of the investigation. Further, the silence of the Claimant after leaving the job and post the investigation -- except for filing a claim -- augurs to his detriment. It is a basic principle that an employee must be available for duty or give reason otherwise. It is also basic that a disciplinary action once taken which lacks an appearance of error and which is unrefuted by the affected employee, stands as correct and proper. This principle fits squarely on this situation and we find no error in the Carrier's action.

Form 1
Page 2

Award No. 8721
Docket No. 8667
2-MP-FO-'81

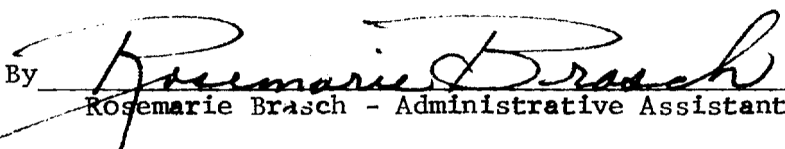
A W A R D

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 May, 1981.