

The Second Division consisted of the regular members and in addition Referee George E. Larney when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

Dispute: Claim of Employees:

1. That in violation of the current agreement, Electrician Helper James Watkins was unjustly suspended from the service of the Carrier from August 24, 1977 to September 22, 1977, inclusive, causing him to lose a total of 21 days of work.
2. That, accordingly, the Carrier be ordered to make the aforementioned Electrician Helper whole by compensating him for lost wages which amounted to \$1,085.28.

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.

Claimant, James Watkins, an Electrician Helper employed at Carrier's Diesel House facility in Bensenville, Illinois, was suspended from service for thirty (30) calendar days following a standard hearing conducted on dates of July 18 and 22, 1977, in which Claimant was adjudged guilty of failure to protect his assignment, account being absent from work on dates of June 11, 23, 24, and 29, 1977.

The Organization contends Claimant had valid reasons for his absences and on each of the claim dates in question, gave timely notice to the Carrier he would not be reporting for work. The Carrier refutes the Organization's contention, submitting Claimant did not call in on the claim dates in question to make notification of his absence. In fact, Carrier notes that on June 25, 1977, which is not a claim date, Claimant did call in to notify of his absence but did so two (2) hours after the start of his shift.

As an appellate body, this Board is not in a position to resolve conflicts in testimony between witnesses appearing on behalf of the respective parties. We do note however, that in the case at bar, the Organization has failed to counter Carrier's charge against Claimant by the proffering of any substantive evidence. Therefore, the Board views the Organization's case as being based on mere assertion which cannot be considered by us as persuasive in disturbing the discipline imposed upon the Claimant. Furthermore, it is our judgment, given the Claimant's dismal past record of absences, late arrivals and early leavings from work that the quantum of discipline imposed of thirty (30) days actual suspension and thirty (30) days deferred suspension was not at all harsh but quite reasonable, even lenient under the circumstances, as Claimant had been issued two (2) prior written warnings for such conduct.

We find Claimant was given a fair and just hearing, that he was afforded, in total, his rights of due process, that he was not treated in a discriminatory manner and that the discipline imposed was neither arbitrary, capricious or excessive. Under these circumstances the Board has no other recourse than to support Carrier's action.

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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 2nd day of September, 1981.