

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Chesapeake and Ohio Railway Company

Dispute: Claim of Employees:

1. That Carman Clifton Roberts Jr. was unjustly dismissed from all service of the Chesapeake and Ohio Railway Company effective February 27, 1978 as a result of an investigation held in office of General Mechanical Foreman's office, Plymouth, Michigan, January 24, 1978 at 11:00 A.M.
2. That accordingly the Chesapeake and Ohio Railway Company compensate Carman Clifton Roberts Jr. his applicable straight time rate of pay from February 27, 1978, until restored to service.
3. That accordingly Carman Clifton Roberts Jr. be reinstated to service with seniority rights, vacation rights, and all other benefits that are a condition of employment unimpaired, with compensation for all lost time plus 6% annual interest.

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 was employed by the Carrier as a carman in Carrier's yard at Rougemere, Detroit, Michigan.

Following an investigation on charge of excessive absenteeism from November 6, 1977 to January 17, 1978, claimant was dismissed from service on February 27, 1978. A copy of the transcript of the investigation has been made a part of the record.

The period involved (November 6, 1977 to January 17, 1978) contained 49 working days. Claimant was absent nineteen days during this period. On some days he reported sick, on some he had automobile trouble, and on some days he was simply shown as "No Report." No medical evidence was submitted to substantiate claimant's alleged illness.

The record also indicates that claimant had previously been cautioned about absenteeism. The discussion of claimant's prior record in the investigation did not violate any rule of the agreement or cause the investigation not to be fair and impartial.

Based upon the entire record, the Board is convinced that discipline was warranted. However, we consider permanent dismissal, under the facts shown, to be excessive. We will award that claimant be restored to the service, with seniority and other rights unimpaired, but without any compensation for time lost while out of the service. Claimant should understand that the purpose of this award is to give him one last chance to become a dependable and reliable employee, and that further major infractions will result in the permanent termination of his services. He should also understand that his work attendance record must improve.

A W A R D

Claim sustained to the extent indicated in Findings.

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 2nd day of September, 1981.