

The Second Division consisted of the regular members and in addition Referee Elliott M. Abramson when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(Burlington Northern Railroad Company

Dispute: Claim of Employees:

1. That in violation of the current Agreement, Laborer Gail Graham, Lincoln, Nebraska, was unfairly dismissed from service of the Burlington Northern Inc. effective May 29, 1979.
2. That accordingly, the Carrier be ordered to make Gail Graham whole by restoring her 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; with reimbursement of all losses sustained account loss of coverage under Health and Welfare and Life Insurance Agreements during the time held out of service; and the mark removed from her 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.

On May 29, 1979 the Claimant, a laborer whose seniority date is July 13, 1978, was dismissed from service in connection with her absenting herself from duty, allegedly without authority, on April 20, 1979, in violation of Rule 665.

At the May 8, 1979 Investigation the Claimant admitted that she did not notify the Wheel Plant Office that she would be unable to protect her assignment. After stating that she thought her husband had called in for her but that he had not because he assumed she had called, she said: "I realize also that this does not excuse the fact that I did not call but that is the reason." She explicitly admitted a violation of Rule 665. A doctor's note, on behalf of Claimant's three month old shoulder injury, dated April 30, 1979, does not unequivocally establish that the Claimant was unable to work on April 20, 1979, and therefore, it can not be found that she was "unavoidably detained" from service on the date in question.

The record provides substantial evidence upon which a finding of guilty can be based. The Claimant clearly did not comply with the notice requirements of Rule 15 (f) of the Agreement. Additionally, she had been employed by Carrier for less than a year and prior to the instant infraction had received a censure, on January 4, 1979, for excessive absenteeism and tardiness while working as a laborer. We feel that the evidence establishes that the Claimant is unable or unwilling to maintain a reasonable attendance record and thus evinces a high degree of irresponsibility on a matter of fundamental importance to the smooth operation of the Carrier.

Having disposed of this matter on the merits we find that there is no need to address the Carrier's contention that the claim is procedurally defective.


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 January, 1982.