

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

Parties to Dispute: (International Brotherhood of Electrical Workers
(National Railroad Passenger Corporation

Dispute: Claim of Employees:

1. That the action of the National Railroad Passenger Corporation (Amtrak), was unjust when they assessed Electrician J. R. Sappington thirty (30) days suspension effective April 16, 1979, in violation of the controlling agreement.
2. That accordingly the National Railroad Passenger Corporation (Amtrak), be ordered to compensate Electrician J. R. Sappington all time lost, including all monies he would have earned, all insurance benefits, all seniority rights and vacation rights restored, including that Electrician Sappington's personnel file be cleared of the charges.

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 Carrier as an electrician at Beech Grove, Indiana. He had been in service almost five years and was 22 years of age. On March 27, 1979, he was directed to report for an investigation to be held on April 3, 1979, on the charge:

- "Charges: 1. Violation of Rule 28(a) of the Schedule Agreement by excessive unauthorized absenteeism.
2. Violation of Rules K & L of the N.R.P.C. Rules of Conduct by excessive unauthorized absenteeism and tardiness.
3. Violation of Rule 11 (b) of the Schedule Agreement by failure to work a workweek of 40 hours.

The investigation will be conducted in conformity with Rule 23 of the applicable Schedule Agreement. You are entitled to representation as provided in that rule.

You may produce such witnesses as you may desire at your expense."

The investigation was conducted as scheduled. A copy of the transcript of the record of the investigation has been made a part of the record. We find that none of claimant's substantive procedural rights was violated. Claimant was present throughout the investigation and was represented. Following the investigation, claimant was notified on April 13, 1979, that he was assessed a 30-day suspension.

The rules referred to in the letter of charge were read into the investigation, and we see no necessity of repeating them here.

In the investigation the electrical foreman testified that Claimant was absent on February 27, six minutes late on February 28, absent on March 8, six minutes late on March 9 and 21, one hour and twenty-five minutes late on March 22, absent on March 26 and six minutes late on March 29. In the investigation the claimant submitted a statement from his dentist showing appointments on some of the dates. The appointments were for March 3, March 8, March 9 and March 12. Some were outside of claimant's assigned hours, as on March 12 the appointment was for 4:00 p.m., and Foreman Brown testified that claimant worked his normal tour on that date. The foreman testified that claimant did not obtain permission from him to be absent on any of the dates involved for dental appointments or any other justifiable reason.

Claimant testified that he called "in to work sick". He did not say whom he talked to, or whether he made more than one call. We do not believe that the one call, assuming that it was made, would justify the absences heretofore outlined. As this Board has held many times, the employer has a right to expect regularity in attendance by its employees.

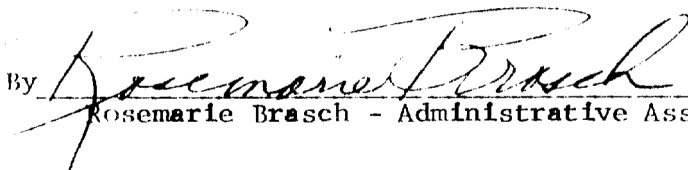
In the investigation reference was made to claimant's prior record. Objection was taken to consideration of his record while working as a laborer and prior to his becoming an apprentice. We consider it proper to consider an employee's record as a whole. See Third Division Award 20263, Second Division Awards 6028, 7473, 7501 and 7688. The record shows that claimant had received a prior warning for absenteeism, a five-day suspension held in abeyance for a similar offense, and a thirty-day suspension.

Based on the entire record, we do not find carrier's action in assessing discipline of thirty days suspension in our present case to be arbitrary, capricious, or in bad faith. The claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 24th day of February, 1982.