

The Second Division consisted of the regular members and in addition Referee Clarence H. Herrington when award was rendered.

Parties to Dispute: ( International Brotherhood of Electrical Workers  
( Chicago and North Western Transportation Company

Dispute: Claim of Employee:

1. That the Chicago and North Western Transportation Company violated the current agreement when they assessed Electrician Duane P. Schommer thirty (30) days deferred suspension at Oelwein, Iowa.
2. That accordingly, Electrician Duane P. Schommer's records be cleared of all charges and discipline and to be compensated for any loss of wages or benefits account of such improper suspension.

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 on September 9, 1971. On December 11, 1979, Claimant did not report for duty at his assigned starting time at 7:00 A.M. At approximately 10:00 A.M., he called the shop's General Foreman and advised that he had overslept and was sick. On December 19, 1979, Claimant was directed to appear for formal investigation on the following charge:

"Your responsibility for failing to report for duty at the starting time of your assignment on Position 250, Electrician, Oelwein System Shop, Oelwein, Iowa, in violation of Rule 14 of the General Regulations and Safety Rules, on December 11, 1979."

The investigation was held on January 2, 1980.

The Organization takes the position that Claimant was in conformity with Rule 20 of the Agreement which is sufficient to offset any alleged violation of Rule 14 of the General Regulations. When discussing the two rules in a prior dispute involved with this Carrier, Public Law Board No. 2512, Award No. 1 (Herbert L. Marx, Jr.) held:

"The Board determines that there is no necessary conflict between the two rules. Rule 14 sets general standards for attendance to duty which may be expected of employes. Rule 20 provides specific reporting requirements. While compliance with Rule 20 is of central importance, such compliance does not necessarily provide means whereby an employe may absent himself from duty."

This Board agrees with the Findings of award supra and so holds (see Award 8750 and awards referred to therein.)

We have carefully reviewed the entire record, including the transcript of the investigation conducted on January 2, 1980. Discipline was warranted; however, in view of the Claimant's length of service and review of his personal record, which is free of any discipline, we do not believe that this infraction warrants a 30 day deferred suspension. Because this was the first disciplinary action against the Claimant in over 8 years of service we will reduce the aforesaid deferred suspension to ten (10) days deferred suspension to reflect a more judicious balance between the offense and the commensurate penalty.

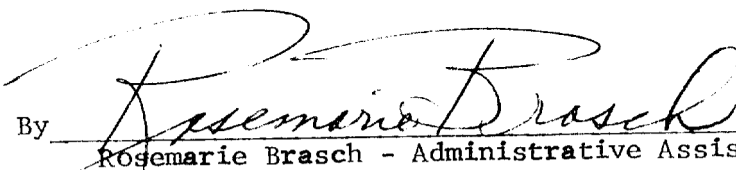
A W A R D

Claim sustained in accordance with the 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 3rd day of March, 1982