

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada
(
(Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

- No. 1. That the Carrier violated the controlling Agreement on the date of March 29, 1979, with regard to an investigation held on the above date in General Car Foreman's office at East St. Louis, Illinois, such investigation alleging charges against Carman, E. R. Pulse, East St. Louis, Illinois, charges allegedly involving Carmen Pulse's responsibility in connection with being absent from his position on the date of Thursday, March 1, 1979, without permission and allegedly failing to protect his assignment.
- No. 2. That this hearing was arbitrarily scheduled and conducted, partial and unfair from the outset, and definitely not held in accordance with the rules of the Agreement, specifically, Rule 32. That Carrier is in direct violation of Rule 5 of the controlling Agreement, thus placing Carrier in flagrant violation of Claimant, Carman, E. R. Pulse's contractual rights.
- No. 3. That Carrier be ordered to remove such alleged charges and discipline assessed account of this investigation, (10 days' overhead suspension) from Carman Pulse's service record and that he be compensated for all time lost on the date of March 29, 1979, account of becoming emotionally overwrought as a direct result of the herein mentioned investigation, thus rendering him incapable and unable to complete his regular tour of duty on the date of March 29, 1979, plus one (1) hours' pay at the time and one-half rate account of attending this arbitrary investigation one hour prior to his regular starting time on the date of March 29, 1979, of 2:00 P.M.

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.

This matter involves an absence on March 1, 1979, for which the Claimant was found at fault by reason of not securing permission, thereby failing to protect his assignment. A ten (10) day overhead suspension was issued and was withheld unless there should be cause for further discipline by suspension during the ensuing six months.

The Organization contends the Carrier violated the Controlling Agreement. It asserts Claimant was in violation of no specific rule, that the investigation was not scheduled promptly, and, in fact, nor conducted in a fair and impartial manner.

Claimant is a Car Inspector and was scheduled to work from 2:00 P.M. to 10:00 P.M. on March 1, 1979. He was in the locker room shortly before starting time. Claimant asked his Supervisor if anyone had been held over to assist with extra work. Everyone on the day shift had refused. Claimant told Supervisor to mark him off as personal. He had personal business to which he had to attend. To fill Claimant's assignment, another employee was called from the overtime board.

Analysis of the record fails to support the Organization's contentions. By letter of March 12, 1979, Claimant was informed of the investigation in connection with "being absent from your position on Thursday, March 1, 1979, without permission and failing to protect your assignment". The investigation was postponed at the request of the Claimant in order to secure witnesses. Carrier's notice of investigation was both proper and timely. Claimant is held to understand that permission must be given before leaving a job assignment despite his statement he was "not a little child and I do not need (your) permission to be off from work". The notice was clear, and Claimant may not determine when and under what conditions he will leave work. He is advised that his singular viewpoint is unacceptable and totally without basis. He must secure authorization prior to leaving a job assignment.

With respect to the Organization's claim the hearing was not conducted in a fair and impartial manner, it is noted that Claimant obtained a postponement, was represented, availed himself of witnesses and testified on his own behalf. There is no foundation in the record for such charges.

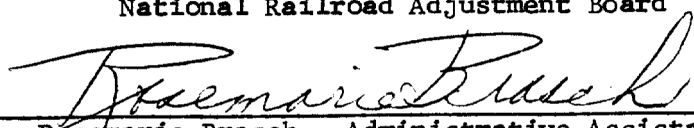
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of April, 1982.