

The Second Division consisted of the regular members and in addition Referee Kay McMurray when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers
{ Chicago, Milwaukee, St. Paul and Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company violated the current agreement when Electrician Helper B. Collins was unjustly dismissed from service on June 4, 1979 for alleged excessive absence from work.
2. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company be ordered to make Electrician Helper B. Collins whole by reinstating him to service with all seniority and other rights unimpaired and repaying all lost wages and benefits and his record cleared.

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, Mr. Collins, was charged with excessive absenteeism. An investigation was conducted on May 3, 1979, and following that hearing the penalty herein complained of was assessed.

The Organization raises a claim that the hearing officer was not fair and impartial. In so doing, it points to the fact that at one point in the hearing he read into the record a transcript from the Phone and Message Book in an attempt to determine whether or not Claimant had called in on any of the days in question. The mere reading of a transcript into the record in order to obtain necessary information is administrative in nature and does not constitute biased testimony which might jeopardize the Claimant's rights. We find that the hearing was conducted in accordance with contractual requirements and past practice.

The record reveals that during the month of March, 1979, Mr. Collins had been absent from work five days and was late for work on four additional days. Claimant does not deny the foregoing record. His reasons were various. He couldn't remember on some of the days and on other days he claimed illness. There is no evidence to buttress the claims of illness. The tardiness was explained

by his claim that he missed the train to work and, therefore, took a later train. There is no credible evidence in the record that he notified his foreman on the days he was absent as required by Rule 16 of the Agreement. Nor did he notify the Carrier that he would be late on pertinent days.

Absence and tardiness on nine of the working days in one month is clearly in excess of the normal and the Carrier cannot be expected to countenance such behavior. Some corrective measure was warranted.

The record further reveals that Mr. Collins had been employed for approximately seven months. During the month of January, 1979, his work efforts displayed a situation almost identical to the month under consideration and he was issued a written warning that he must improve. He was again given a letter of warning on February 22, 1979 that the same pattern of behavior prevailed during early February. Claimant was warned that unless his performance improved he would be subject to penalty and possible dismissal. The record following that letter is the subject of the charges.

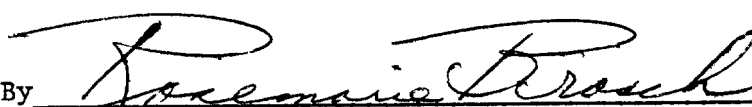
A W A R D

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 21st day of April, 1982.