

The Second Division consisted of the regular members and in addition Referee Edward M. Hogan 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 it unjustly dismissed Electrician Helper Henry Smith on March 24, 1980 for alleged failure to protect his assignment.
2. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company be ordered to make Electrician Helper Henry Smith whole by reinstating him to service with all seniority and other rights unimpaired and compensating him for all lost wages and benefits and clearing his 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.

Claimant was dismissed from the Carrier's service, after a proper and formal investigation, on the charges of absenteeism, tardiness, and taking an unauthorized leave of absence. Claimant was in the Carrier's service for approximately eight months prior to his dismissal. Less than four months after the Claimant was originally employed, a warning letter was sent advising him that he had accumulated excessive days of absenteeism as well as numerous cases of tardiness. He was advised that absenteeism and tardiness would not be tolerated, and that unless he was available regularly for work in the future, and reported regularly for his job, it would be necessary for the Carrier to take disciplinary action to correct the situation. Approximately three months after the November 21st letter (February 5, 1980), another letter of warning was sent to the Claimant advising him that his attendance record had not improved and that unless he immediately improved his record, he would subject himself to discipline, including dismissal.

The record clearly supports the hearing officer's conclusion that Claimant failed to protect his job assignment on numerous occasions, and that in spite of prior warning letters, Claimant did nothing to improve his record. Clearly, Claimant has violated Rule 16 of the Agreement, which reads as follows:

"An employee detained from work on account of sickness or any other good cause, shall notify his foreman as early as possible."

Claimant failed to notify his foreman on at least eleven occasions between February 23, 1980 and March 3, 1980.

The record shows that the Claimant had been counseled on many occasions and warned about his attendance record in writing. However, he did not take the initiative or heed the warning letters that were sent to him on two occasions. Second Division Award No. 7348 of this Board states:

"When an employee is so consistently and habitually absent over a long period of time that his employment becomes a serious liability rather than an asset, the carrier is entitled to terminate his services."

The Organization claims that the Claimant did not receive a fair and impartial hearing because he was not in attendance at the hearing. The record shows that the Organization's representative agreed at the hearing, that the hearing was fair and impartial. It is not fatal to the fair and impartial conduct and nature of the hearing that the employee, properly notified, be in attendance at his hearing and participate in the hearing.

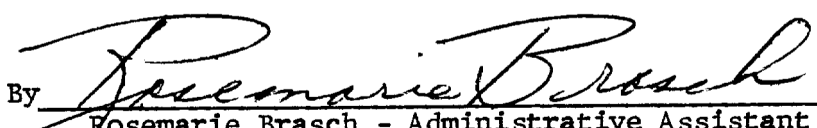
A W A R D

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 28th day of April, 1982.