

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States  
{ and Canada  
{ Washington Terminal Company

Dispute: Claim of Employee:

1. That the Washington Terminal Company violated the controlling agreement when they unjustly dismissed Car Cleaner D. A. Fisher as a result of an investigation held on February 8, 1979.
2. That accordingly the Washington Terminal Company be ordered to return Mr. Fischer to the service of the Company with seniority and vacation rights unimpaired and compensated for his net wage loss due to this unjust dismissal.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 D. A. Fischer, a Car Cleaner in Carrier's employ at the Washington Terminal, was dismissed from service for excessive absenteeism.

On February 1, 1979, Carrier notified Claimant that he should report for a hearing into charges that he had been absent from duty seven days during the month of January 1979. The hearing was held as scheduled. Claimant was found guilty as charged and dismissed from service.

The Organization alleges that Claimant was unjustly discharged, since his days of absence in January 1979 were all legitimate. It further argues that Carrier dismissed Claimant because of his bad record and not because of the incidents specified in the charges.

A review of the record reveals that Claimant was in fact absent from work on the days specified in the charges and that his work record leaves much to be desired. Carrier in this instance has attempted, through progressive discipline and counseling, to impress Claimant with his obligation to appear at work on a regular and timely basis. He has failed to respond. Carrier need not maintain persons in its employ who do not report for work when required to do so. This Board, as well as every other Division of the NRAB, has consistently taken that position. There are numerous cases on this point.

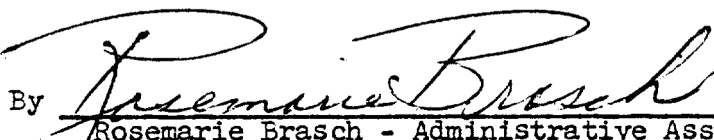
Carrier was within its right to discipline Claimant for his failure on seven occasions to show up for work during the month of January 1979. When this is considered, together with the fact that he has been disciplined on four previous occasions for excessive loss of time and on one occasion for violation of safety rules in a short 18-month career with the Company, one must conclude that dismissal from service is appropriate.

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 16th day of June, 1982.