

The Second Division consisted of the regular members and in addition Referee Thomas V. Bender 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 agreement when Electrician W. T. Whitt was unjustly disciplined with a thirty (30) day suspension, fifteen (15) days of which were actual, commencing September 13, 1979 and ending September 27, 1979, and the other fifteen (15) days of which were deferred with one year probationary period, causing Electrician W. T. Whitt to lose eleven (11) days of compensation.
2. That, accordingly, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company be ordered to make Mr. W. T. Whitt whole by compensating Mr. Whitt for eleven days at \$9.27 per hour (\$815.76) and by expurgating the fifteen days of deferred suspension with one year probationary period.

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.

The Claimant in this case was given a thirty (30) day suspension (fifteen (15) days actual and fifteen (15) held in abeyance for one year).

On July 24, 1979, the Claimant was counseled by his supervisor regarding his attendance. This meeting was precipitated by the Claimant's failure to protect his assignment on July 8, 15 and 22, 1979. Apparently, the Claimant did not pay strict attention to the discussion or discounted the importance to the carrier of his conscientious attention to his job. On August 5 and 12, 1979 he once again failed to protect his assignment. On August 5, 1979 Claimant's wife did call to advise the Carrier that her husband would not be reporting for duty.

In response to the Claimant's conduct following the July 24, 1979 conference the Carrier noticed the Claimant for an investigation which was held focusing on the Claimant's attendance problem. During the course of the investigation the Claimant

admitted his failure to protect his assignment on the dates listed supra and his concurrent failure to advise the Carrier that he would not be in to work. The Carrier, acting upon the Claimant's admissions issued the thirty (30) day suspension being contested here.

The record contains substantial evidence that the Claimant did fail to notify the Carrier of his absences on the dates charged and further that Claimant seemingly made no effort to notify his supervisor. The scope of this Board's review was articulately stated in Second Division Award No. 7473 (Weiss). Referee Weiss points out that we do not consider cases on a de novo basis. Nor may we substitute our judgement for that of the Carrier. If the record contains substantial evidence the Carrier's assessment of discipline will not be disturbed unless the Carrier's arbitrary or capricious. See also: Second Division Award No. 8023 (Marx); Second Division Award No. 8566 (LaRocco).

In the instant case the penalty assessed is so excessive as to be unjust and arbitrary. A fifteen day actual suspension is sufficient to impress an employee that attendance rules must be observed. No business can function and survive when its employees are absent so frequently that they become in fact part time. A Carrier has a right to expect faithful service from its employees. Moreover, by acting promptly and decisively, hopefully the Carrier has succeeded in changing the Claimant's attitude toward absenteeism. And, this should be the goal of discipline; corrective as opposed to strictly punitive in nature. Fifteen (15) days actual suspension will serve that function.

The assessment of a thirty (30) day suspension is reduced to a fifteen (15) day actual suspension. The Claimant's record shall be changed to reflect this modification.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch Administrative Assistant

Dated at Chicago, Illinois, this 30th day of June, 1982.