

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

Parties to Dispute:     { International Brotherhood of Electrical Workers  
                              { Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That the action of the Consolidated Rail Corporation (Conrail) in the dismissal of Electrician T. E. Pfeiffer from service was arbitrary, capricious and unjust.
2. That accordingly, the Consolidated Rail Corporation (Conrail) be ordered to return Electrician T. E. Pfeiffer to his former position with seniority unimpaired and compensation for all time lost.

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.

T. E. Pfeiffer, the Claimant, is an electrician with approximately twenty-three years of service. On June 20, 1980, the Claimant was advised of his dismissal for failure to report to duty on May 24, 25, June 2, 3, which, in light of his previous attendance record, constituted, according to the Carrier, excessive absenteeism.

The Organization claims the Carrier's reference to the Claimant's past attendance and related disciplinary record was improper and prejudiced his rights. The Organization also points out the only day the Claimant failed to call in, according to the Rules, was June 2, 1980.

The record is basically undisputed. The Claimant testified he had personal problems which caused him to be emotionally upset. Notwithstanding, this excuse does not justify his absences. Reference to the Claimant's past attendance is protested. However, this Board believes the basis for the charge of excessive absenteeism extends over a considerable period of time and would be unfounded if based on only the four absences which occurred in May and June. Fundamental fairness requires a retrospective overview of attendance in any charge of excessive absenteeism.

The Board concludes the Claimant did not justify his absences of May 24, 25, June 2, 3, 1980. After reviewing this entire record, this Board is of the opinion that this long service employe deserves one final, last chance to demonstrate he is able and willing to become a reliable employe once again. However, in restoring Claimant to service, he ought to be aware that should he revert to his past pattern of irregular attendance, the Carrier cannot be expected to accept such conduct.

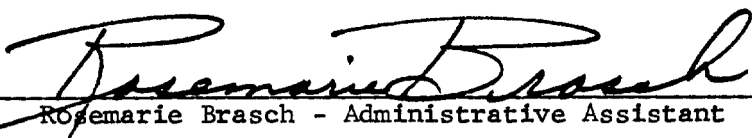
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Claim sustained in part. Claimant is to be restored to service without back pay and with his seniority unimpaired.

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 13th day of July, 1983.