

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

Parties to Dispute: (International Brotherhood of Firemen & Oilers
(
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Laborer R. B. Gilmore was unjustly dismissed from service of the Carrier following trial held on April 30, 1981.
2. That, accordingly, the Carrier be ordered to make the aforementioned R. B. Gilmore whole by restoring him to Carrier's service, with seniority rights unimpaired, made whole for all vacation rights, holidays, sick leave benefits, and all other benefits that are a condition of employment unimpaired, and compensated for all lost time plus ten (10%) percent interest annually on all lost wages, also reimbursement for all losses sustained account of coverage under health and welfare and life insurance agreements during the time he has been held out of service.

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.

As a result of a trial held on April 30, 1981, the Claimant was advised by notice dated May 13, 1981, that he was being dismissed from service for excessive absenteeism. The Carrier relies upon a series of absences during March and April of 1981, coupled with previous absences in 1980 and earlier discipline imposed upon the Claimant to support its action.

After reviewing the record in its entirety, the Board is satisfied that the Claimant has admitted to being absent on the dates contained in the Carrier's charge. Therefore, there is no further burden upon the Carrier to prove that the Claimant was absent and, therefore, guilty as charged. Although having been previously warned about his attendance problems, the Claimant continued to disregard his responsibilities to his job and to the Carrier. He has demonstrated a pattern of laxness that, under any reasonable standard, is not easily ignored.

Accordingly, in view of all the circumstances of record, the claim is denied.

A W A R D

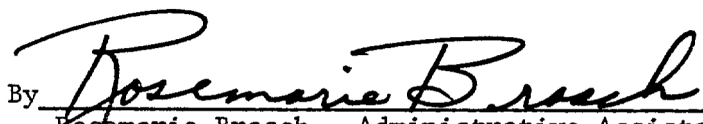
Claim denied.

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Award No. 9576
Docket No. 9774
2-CR-FO-'83

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 20th day of July, 1983.