

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

Parties to Dispute: (International Association of Machinists and Aerospace Workers
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That the Consolidated Rail Corporation be ordered to compensate Machinist R. Rider twenty (20) days pay at the prevailing machinist rate of pay.
2. The Agreement effective May 1, 1979 is controlling.

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.

On April 11, 1980, a trial was held to determine the facts relative to the Claimant's failure to appear as a Company witness at a trial scheduled for March 28, 1980.

Subsequent to the investigation, the Claimant was notified that he had been found guilty of insubordination and suspended a total of twenty (20) days.

The Claimant acknowledged that he had been notified to appear at a trial to be held on March 28, 1980. However, because of sickness that day, he did not appear at the place designated for the trial or for his work assignment. The Claimant contends that he made one attempt to call the Carrier, but he experienced problems with the telephone, claiming that the only thing he heard was a buzzing noise from the telephone. He then maintains that he called his brother (who was also employed by the Carrier) and asked him to mark him off for the day. The brother, it is stated, forgot to do so.

The Employee's contention that he had problems with the telephone, in one respect, runs counter to his actions. He stated that he called his brother and was able to speak clearly with him. On the other hand, if the buzzing problem occurred when dialing the Carrier's number, as the Claimant maintains, there were various other Carrier numbers, as brought out at the hearing, which could have been called.

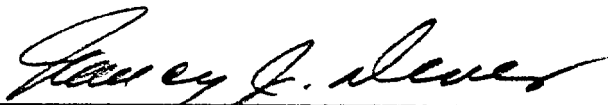
In the final analysis, he alone is responsible for his actions. If the Claimant was not able to reach the Carrier initially, it was incumbent upon him to continue with his efforts, or suffer the consequences. The claim is denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board



Nancy J. Dever Executive Secretary

Dated at Chicago, Illinois, this 27th day of July, 1983.