

The Second Division consisted of the regular members and in addition Referee Josef P. Sirefman when award was rendered.

Parties to Dispute: (System Council No. 8
(Internatinal Brotherhood of Electrical Workers
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(Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

Dispute: Claim of Employes:

1. That at the Milwaukee Shops on September 25, 1979, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company violated the controlling agreement when Foreman Williamson assessed discipline on Electrician Helper Kenneth Olmos without holding a hearing in violation of Rule 35 of the current agreement.
2. That accordingly, Electrician Helper Kenneth Olmos be compensated for five (5) hours at the prevailing rate of \$9.27 per hour.

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 apperance at hearing thereon.

Claimant Kenneth Olmos is an electrical helper. On September 25, 1979, Claimant called in to the third shift clerk at 6 AM to leave a message for his Supervisor that he would be late for work (starting time 7 AM) due to car trouble. The Organization contends that Claimant appeared for work at 10 AM that day, was not permitted to work for the remainder of the day, and seeks five hours pay for Claimant from 10 AM till the end of the shift at 3 PM. It claims that Claimant complied with Rule 16, "An employee detained from work on account of sickness or for any other good cause, shall notify his foreman as early as possible", and therefore was improperly disciplined without a hearing as required by Rule 35.,

It breaks no new ground for this Board to observe that an employee complying with Rule 16 by calling to say that he will be detained is not necessarily guaranteed work for that part of the day in which he becomes available. Rule 16 notification enables Management to be aware of who will or will not be available at the start of the shift. Beyond that the Carrier has to adjust its plans and proceed with the day's work, particularly when there is no indication of when the employee would show up during the day (as was the case here), and there is no guarantee that a late employee will fit into these plans. The exclusion of Claimant from work for the remaining five hours was not a disciplinary action in this context, a general principle found in numerous Second Division Awards including Award Nos. 7384, 7355, 7567, 7838, 7990, 7946 and 8045.

A W A R D

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:



Nancy J. Dewey - Executive Secretary

Dated at Chicago, Illinois, this 8th day of February, 1984