

The Second Division consisted of the regular members and in addition Referee Hyman Cohen, when award was rendered

Parties to Dispute: (International Association of Machinists and Aerospace
(Workers, AFL-CIO
(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That the Seaboard Coast Line Railroad Company violated the controlling Agreement, on January 6, 1981 when it held Machinist Victor Bauza out of service pending an investigation held on January 23, 1981.

2. That the Seaboard Coast Line Railroad unjustly suspended Machinist Victor Bauza for 45 days beginning January 6, 1981 and running continuously through February 19, 1981.

3. That according the Seaboard Coast Line Railroad be ordered to compensate Machinist Victor Bauza for all pay and benefits lost as a result of the above 45 days suspension.

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 employes 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.

Following an investigation which was held on January 23, 1981, Machinist Victor Bauza, the Claimant, was suspended from service for forty-five (45) days for having violated Rules 1, 4, 8, 12 and 26 of the Rules and Regulations of the Mechanical Department on January 5, 1981. These Rules provide in relevant part, as follows:

Rule 1 "****to enter or remain in the service is an assurance of willingness to obey the rules and to work diligently during shop hours***."

Rule 4 "Employees are required to devote their time exclusively to the business of the Company unless expressly exempted from so doing by proper authority."

Rule 8 "Each employee furnished with a time card must check in and out in order that his hours worked may be readily calculated and charged to the proper account***."

Rule 12 "***wilful neglect***will subject the offender to summary dismissal."

Rule 26 "Employees must not absent themselves from their duties without permission from the proper authority."

On January 5, 1981 the Claimant's regular assignment was the operation of a wheel lathe on the second shift which begins at 4:00 p.m. and ends at midnight. At the beginning of the shift, Car Foreman D. R. Ratzmann informed the Grievant that a Mr. Purvis would observe him turn a wheel on the lathe. The Claimant was then introduced to Mr. Purvis but it was not disclosed to him that Mr. Purvis was the General Mechanical Inspector. After Foreman Ratzmann left the area, Mr. Purvis asked the Claimant several questions on the operation of the wheel lathe and offered a few suggestions on how he could improve his work. When the Claimant was advised to make a different setting to get a proper cut on the wheel the Claimant said that he was sick and he was going home. When he was asked by Mr. Purvis to cut the machine off, the Claimant told him to "turn it off, yourself" and he left the property at roughly 4:15 p.m. While driving home, the Claimant stopped on the way and called Foreman Johnston to tell him that he had to go home because he was sick.

After carefully examining the evidence in the record, the Board has concluded that the Claimant had neither requested, nor received permission to leave work and absent himself from his duties, as provided in Rule 26. Despite the "pain" in his "stomach" and that he "was too nervous", the Claimant was physically able to advise his supervisor on his condition and to request permission to leave work. The Claimant's failure to do so on January 5, 1981 is damaging to the efficiency and safety of the Carrier's operation. By reason of the employer-employee relationship, it is imperative that an employee seek permission from the employer to report off from work. At the very least, it is reasonable to the Carrier to assume that an employee who reports to work will complete his shift. In the event an employee becomes ill after reporting for work, it is only fair that he give the Carrier sufficient notice so that the Carrier can take the appropriate steps to relieve the employee and continue with its operations. See Second Division Awards 9591, 9430, 9364, 8515 and 7560. Parenthetically, it should be noted that no medical evidence was submitted by the Claimant to the Carrier to warrant his departure from his work assignment, roughly 15 minutes after the beginning of his shift on January 5, 1981.

Furthermore, the Claimant failed to clock in for work on January 5, 1981. Although Foreman Johnston acknowledged that he has clocked in for employees who forget to do so or "come in late", Foreman Johnston did not know why the Claimant did not clock in. As a result, by failing to clock in on January 5, 1981 the Claimant violated Rule 8.

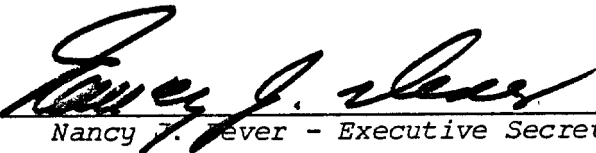
The Claimant's employment record fails to disclose that the Carrier has issued disciplinary action against him. Moreover, the Claimant has been employed as a machinist since November 13, 1974. Without minimizing the seriousness of the Claimant's conduct and failure to comply with the Rules and Regulations of the Mechanical Department on January 5, 1981, the Board is of the view that the forty-five (45) days disciplinary suspension of the Claimant is excessive. However, if the Claimant engages in such conduct in the future, the Carrier will have no recourse, except to impose a far more serious disciplinary action, including discharge. The Board concludes that the Claimant should have been suspended for thirty (30) days, and is to be paid for all wages and benefits lost in excess of thirty (30) days.

A W A R D

Claim sustained to the extent indicated in the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of April, 1984