

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(Burlington Northern Railroad Company

Dispute: Claim of Employees:

1. That the Carrier's action in dismissing Laborer P. E. Scott from its service on August 26, 1981, was indeed harsh, out of proportion, excessive and constituted an abuse of discretion.
2. That accordingly, the Burlington Northern, Inc. restore Laborer P. E. Scott to service-
 - (a) with his seniority rights unimpaired;
 - (b) compensation of all time lost;
 - (c) make whole all vacation rights;
 - (d) paid premiums (or hospital dues) for hospital, surgical and medical benefits for all time held out of service;
 - (e) pay premium for his group life insurance for all time 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 employee or employees involved in this dispute are respectively carrier and employees 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.

Claimant, Paul E. Scott, was employed by the Carrier as a shop laborer since March 20, 1978. On July 26, 1981, Claimant did not report for service at his 4 p.m. starting time. He did not contact his Foreman in advance in order to advise him that he would not be reporting that day.

As a result of the above incident, an investigation was held on August 26, 1981, in order to determine the facts surrounding the Claimant's failure to report to work. Claimant stated that he did not report in and did not have permission to miss work. He also stated that he had been drinking heavily and had passed out in the back seat of his car.

Based on Claimant's admission and other evidence contained in the hearing record, the Carrier found that the Claimant had missed work without permission on July 26, 1981. Based on his previous record, the Carrier terminated him effective August 26, 1981. Claimant had been warned on several occasions in the past for being off work without permission and had also received a 30-day suspension on May 18, 1979, and a 60-day suspension on September 25, 1980, for similar offenses.

The Organization does not dispute the actual findings but contends that the dismissal was harsh, out of proportion, excessive, and an abuse of discretion, and therefore unreasonable and arbitrary.

The Carrier argues that the dismissal was reasonable because the Claimant had received progressive discipline within the past few years warning him that his continued disregard for attendance rules would meet with more severe discipline. Indeed, the Claimant had received two previous suspensions in the past two years. The Carrier also argues that although failure to report for duty is not always an offense that requires dismissal, in light of the Claimant's excessive "heavy drinking", Claimant obviously does not have a high regard for his job, and his obligation to the Carrier ranks low in his list of priorities.

The Board has reviewed the evidence and finds that it will not set aside the dismissal of the Claimant. Claimant had been repeatedly warned and disciplined regarding his failure to report to work and being absent from his duties without proper authority. In spite of the progressive nature of the discipline, Claimant, by his own actions, demonstrated that the discipline served no useful purpose and Claimant continued to disregard the rules. In situations such as that, dismissal is the only reasonable alternative for the Carrier to impose when an employee has not reformed his behavior. The Carrier is not required to keep the Claimant in service after two lengthy suspensions did not impress upon him the requirement of conforming his conduct to the rules.

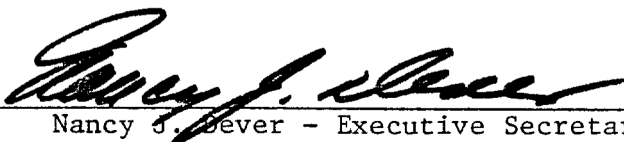
A Carrier has a right to expect reasonably regular attendance from its employees. If its employees have so little regard for the operation of that railroad that they believe they can sleep off a heavy drinking spell rather than report to work or even notify the Company that they will not be reporting, then dismissal is not an unreasonable response of the Carrier. Claimant was given enough opportunities to reform his behavior. The written warnings and lengthy suspension fell on deaf ears. There was nothing unreasonable or arbitrary on the part of the Carrier when it dismissed the Claimant.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

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