

The Second Division consisted of the regular members and in addition Referee Francis M. Mulligan when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(
(National Railroad Passenger Corporation (Amtrak)

Dispute: Claim of Employee:

1. That under the current Agreement, the National Railroad Passenger Corporation (Amtrak) has unjustly assessed discipline of thirty (30) days suspension, deferred six (6) months, against Electrician R. A. Reeves on December 16, 1980 at Beech Grove, Indiana.
2. That accordingly the Carrier should be ordered to vacate the discipline and to expunge the aforementioned employe's record of any unfavorable marks resulting therefrom.

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.

The charge in this case is excessive absenteeism. Claimant is charged with violating Rule 28(a) of the Controlling Agreement, Rule (L) of the NRPC Rules of Conduct and Rule 11(b) of the Controlling Agreement involving working a forty (40) hour work week. Claimant R. A. Reeves works at the Carrier's Beech Grove, Indiana facilities. He has been in the service of the Carrier at least since 1976. The critical rule is Rule 28(a) which states that employes shall not absent themselves from their positions for any cause without first obtaining permission from their supervisor. In case of sickness, etc. where the supervisor cannot be located, they shall notify their supervisors or another person in authority as soon as possible. The Procedures Manual of the Carrier indicates that excessive absenteeism is three (3) or more unexecuted periods in any thirty (30) day period. Testimony was presented that the Carrier had established a procedure which an employe is to follow to obtain permission to be absent from the assigned position. The procedure was to call the Guard Shack and notify the person on duty. The Carrier claims that the Claimant did not prove that he called the Guard Shack. Testimony presented by the Carrier was that of the payroll clerk indicating that

The Claimant was found away from his assigned work place and in an area where tires are stored. He could provide no reasonable explanation for his presence there, and indeed did change his story as to his supposed purpose in that location.

There can be no doubt that this short service employe (four months) was improperly away from his work area. Suspicion as to his intentions concerning the tires is well founded, but there is no demonstrated proof of actual removal of tires from the Carrier.

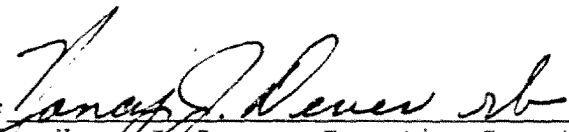
In view of this, the Board finds the penalty of dismissal unduly harsh.

A W A R D

Claim sustained to the extent that the Claimant shall be offered reinstatement with seniority but without back pay or retroactive benefits when and if his seniority permits.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 1st day of August 1984.