

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

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(
(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That under the current and controlling agreement, Laborer J. T. Wilkerson, Jr., I. D. No. 140039, was unjustly dismissed from service of the Seaboard Coast Line Railroad Company on July 14, 1982, after a formal investigation was held in the office of Assistant Shop Superintendent Mr. C. K. Pickett, Waycross, Georgia.
2. That accordingly, Laborer J. T. Wilkerson be restored to his assignment at Waycross Shops, Waycross, Georgia, with his seniority rights unimpaired, vacation, health and welfare, hospital and life insurance and dental insurance be paid and compensated for all lost time effective July 14, 1982, for each and every day Mr. Wilkerson is not permitted to protect his assignment at the pro-rata rate of pay, and the payment of 6% interest rate added thereto, when Mr. Wilkerson was removed from service by Mr. O. G. Woods, Shop Superintendent.

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 Claimant entered the service of the Carrier on May 22, 1968 at Waycross, Georgia. He was removed from service on July 14, 1982, subsequent to the formal investigation which was held on May 28, 1982.

The Claimant was removed from service because he was absent without permission on May 18, 1982. As a result he was charged with violation of Rule 19 of the Agreement and Rule 26 of the Carrier's Rules and Regulations of the Mechanical Department which are set forth as follows:

"RULE 19

In case an employee is unavoidably kept from work he will not be discriminated against. An employee detained from work on account of sickness or for any other good cause shall notify his Foreman as early as possible."

"RULE 26

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

The Claimant received permission from his foreman to be absent from work on May 17, 1982. He did not report for duty on the following day, May 18, because he wanted to help his father get his social security "started". The Claimant admitted that he did not receive permission to be off on that day. By his absence from his assignment on May 18, the Claimant was in clear violation of Rule 19 of the Agreement and Rule 26 of the Rules and Regulations.

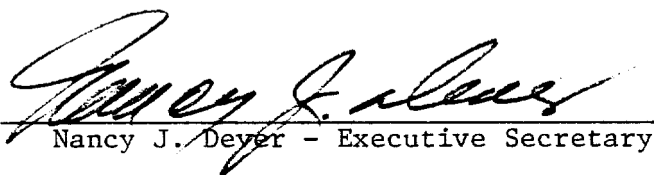
The Claimant's employment record discloses that on four (4) previous occasions the Claimant has received discipline, including dismissal for excessive absenteeism and for being absent from his assignment without permission. He has over fourteen (14) years of service with the Carrier and General Foreman Blount indicated that the Claimant performed his "duties in an excellent manner", compared to other laborers. Without minimizing the seriousness of the Claimant's conduct, it is the judgment of the Board that the penalty of dismissal was excessive. Accordingly, the Board is of the view that the Claimant is to be reinstated without pay for time lost.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 17th day of October 1984.