

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

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Laborer Gilbert Davis was unjustly dismissed from service of the Carrier following trial held in absentia on November 21, 1980.
2. That, accordingly, the Carrier be ordered to make the aforementioned Gilbert Davis whole by restoring him to Carrier's service, with seniority rights unimpaired, made whole for all vacation rights, holidays, sick leave benefits, and all other benefits that are a condition of employment unimpaired, and compensated for all lost time plus ten [10%] percent interest annually on all lost wages, also reimbursement for all losses sustained account of coverage under health and welfare and life insurance agreements during the time he has been 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 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 a hearing, the Claimant was found guilty of falsification of time card and dismissed from service.

The facts are uncontroverted. The Claimant, a Laborer, reported to work one hour and 45 minutes late on November 14, 1980, but submitted a time card for his full shift.

The hearing was scheduled for November 21, 1980. The Claimant was notified on November 15, but did not appear. The hearing was held in his absence.

The Organization contends that the penalty of dismissal was unjust and it further asserts that the Carrier was arbitrary in denying the Claimant's request for postponement of the hearing.

The record reflects that the Claimant's request for postponement was made only two hours prior to the scheduled commencement of the hearing and without an adequate excuse.

The Board finds the Carrier in no way arbitrary in denying postponement of the hearing and wholly reasonable in its finding of guilt and imposition of discipline.

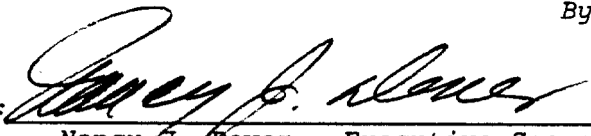
Dishonesty by an employe in any form may constitute ground for dismissal. Such discipline is warranted, as in the case here, when an employe falsely claims unearned compensation. No mitigating factors whatever are present here. The Claimant was a relatively new employe of 16 months and had already received five disciplinary notations on his record.

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 9th day of January 1985.