

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

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

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Laborer J. J. Overton was unjustly dismissed from service of the Carrier following trial held in absentia on November 28, 1980.
2. That, accordingly, the Carrier be ordered to make the aforementioned J. J. Overton 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 was dismissed from service.

The facts are uncontroverted. The Claimant, a Laborer, claimed eight hours pay for the second shift, which he did not actually work, and also claimed eight hours at time and one-half for the third shift, a rate to which he was not entitled.

The hearing was scheduled for November 28, 1980. The Claimant received notice on November 18, 1980, but failed to appear. A representative appeared on his behalf, and the hearing was held in his absence.

The Organization alleges that the Claimant had insufficient time to prepare a defense and that the Carrier was arbitrary in imposing the dismissal penalty. We find both claims to be without merit.


Ten days notice is plainly sufficient and consistent with due process. The Claimant was guilty of egregious dishonesty by falsely claiming payment for time not worked. Such conduct is in effect in the nature of a theft. A strong penalty of dismissal was warranted. No extenuating circumstances are present. The Claimant was a relatively new employe with a poor record of attendance who indicated insufficient interest in his continued employment by not appearing at the hearing.

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.