

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 10184
Docket No. 9646
2-SOU-CM-'85

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada
(Southern Railway Company

Dispute: Claim of Employes:

1. That under the current Agreement, Carman D. A. Davis, Atlanta, Georgia was unjustly suspended from service from September 30, 1980 to October 18, 1980 and was not given a fair and impartial investigation.
2. That accordingly, the Carrier be ordered to pay Carman D. A. Davis for all time lost while suspended from service, including any derrick overtime he missed while suspended from his derrick operator's assignment.

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 were given due notice of hearing thereon.

The Claimant, a Carman with 14 years seniority, was suspended for 15 days, following a formal investigation, on charges of excessive absenteeism.

It is undisputed that the Claimant was absent from service for 23 of the 54 working days between June 15 and August 28. Sixteen of these absences were allegedly for some form of personal illness, three were because the Claimant was taking his wife to the Doctor, two were caused by car trouble and one each was caused by his wife's illness and his oversleeping.

The Organization argues that the Carrier violated Rule 30 by suspending the Claimant for excessive absenteeism which covered 16 days of absence for personal illness. Rule 30 states,

"(a) 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.

"(b) The provisions of paragraph (a) shall be strictly complied with. Excessive absenteeism (except due to sickness under paragraph (a) above) and/or tardiness will not be tolerated..."

According to the Organization, this Rule means that absence as a result of personal sickness or other good cause may not be considered excessive absenteeism, nor may employees out of work for these reasons be discriminated against on that ground. Therefore, it argues, the Claimant may not be charged with excessive absenteeism because he was absent on 16 occasions as a result of a serious back injury dating to 1977. In addition, the Organization asserts that the hearing was conducted unfairly.

The Carrier takes the position that Rule 30 does not condone excessive absenteeism. It disputes the allegation that the Claimant's absences were the result of his back injury. As justification for the suspension, the Carrier notes that the Claimant had received two letters of reprimand for excessive absenteeism, as well as other forms of discipline.

After careful review of the record, the Board concludes that the claim has not been supported. While we agree that Rule 30 prohibits discipline on grounds of excessive absenteeism in the case of illness, the Claimant has offered no proof that his absences were, in fact, caused by illness. Although the Claimant alleges that his absences resulted from a 1977 back injury, he was released by a Doctor to return to work. The Claimant has presented no medical documentation to prove his claims of illness since his medical release. He has thus shown no good cause for his grossly excessive absences. Accordingly, the claim must be denied.

We find no evidence that the hearing officer's conduct of the hearing was unfair or improper.

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.