

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

Parties to Dispute: (International Brotherhood of Electrical Workers  
(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That the Seaboard Coast Line Railroad Company violated the Controlling Agreement, in particular Rule 32, when Electrician A. L. Harris was unjustly dismissed from service on April 16, 1982, at Hialeah, Florida.
2. That accordingly, the Seaboard Coast Line Railroad Company compensate Electrician A. L. Harris in the amount of eight (8) hours pay per day at the pro rata rate for the period commencing April 16, 1982, and ending the day he is reinstated to his position as Electrician at Hialeah, Florida, both dates inclusive. In addition Electrician A. L. Harris be allowed all other benefits that accrue to his position.

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 was notified to attend an investigation to develop facts and determine responsibility, if any, in connection with absenteeism from January 1, 1982 until February 26, 1982. Subsequent to the investigation, the Employee was notified that he had been found guilty and was dismissed from the service of the Carrier.

The Carrier found that the Claimant was absent a number of days and late for work during the period cited in the charge. Having thus found, the Carrier considered the Claimant's past record, which under any reasonable standard, was not a good one, and discharged the Claimant.

The evidence herein established that the Claimant, in fact, did call his Employer on a number of occasions when he absented himself from work. Moreover, the record shows that the Carrier had in hand and accepted without question a Doctor's statement which gives credence to the Claimant's contentions that he was sick for a major portion of the days used by the Carrier to arrive at its finding of guilt.

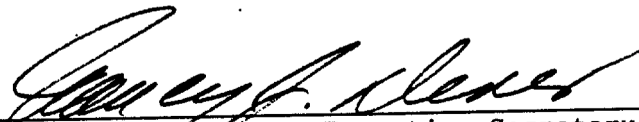
Accordingly, the Board, finds, under these circumstances, that the dismissal of the Claimant was unduly harsh. The Claimant is to be restored with seniority rights unimpaired, but without back pay. However, the Board has recognized that the Claimant has an absenteeism behavior pattern that, if continued, would be unacceptable. Therefore, the Claimant should understand that the Board's action provides a last opportunity to prove that he can be a reliable employee.

A W A R D

The claim is sustained in accordance with the findings.

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.