

The Second Division consisted of the regular members and in addition Referee Barbara W. Doering when award was rendered.

Parties to Dispute: (The Brotherhood Railway Carmen of the United States and Canada
(Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Dispute: Claim of Employees:

1. That the Southern Pacific Transportation Company (Texas and Louisiana Lines) violated the controlling agreement, particularly Rule 34 when they unjustly suspended Carman F. H. Washington from service for a period of thirty (30) days (Wednesday, April 9, 1980 through Thursday, May 8, 1980) following investigation held on March 27, 1980.
2. That accordingly, the Southern Pacific Transportation Company (Texas and Louisiana Lines) be ordered to compensate Carman Washington as follows:
 - a) Compensate him for all wage loss beginning April 9, 1980 through May 8, 1980 when unjust suspension expired;
 - b) Be made whole for all vacation rights;
 - c) Made whole for any benefits earned during the time he was held out of service;
 - d) Return him to service with seniority rights unimpaired;
 - e) Compensate him 6% interest on all monies due him.

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.

Claimant F. H. Washington, a Carman with 6 years service, was suspended for 30 days for absence without good cause.

The Organization contends that the charge, which listed only monthly totals rather than specific dates of absence, was not precise. While the Board agrees that specific dates would have been better, it does not find that failure to include them seriously affected Claimant's ability to prepare a defense.

On the merits, the Organization contends that 2 of the 14 days of absence in the January/mid-March period were incorrectly charged. Carrier argues that despite the apparent error with respect to these two dates, Claimant nevertheless lost a large number of days in a very short period and Carrier contends that it had no choice but to make him aware through discipline that so much absence was unacceptable.

Carrier notes that the last two periods of absence involved requested emergency leaves because Claimant's wife was allegedly ill after child-birth. The birth certificate offered in evidence, however, does not verify his wife's condition during the seven days Claimant absented himself after the child was born. Moreover, although Claimant was allegedly told by another employe in the tower that he need not call in each day, and although he was allegedly told by his immediate Supervisor that the second requested leave would be approved, Carrier contends that neither demonstrates a proper attempt on his part to ascertain that the requested leave either had been or would be approved. The employe in the tower did not have authority to approve leaves of absence, and Claimant's Supervisor failed to appear to substantiate the statements attributed to him. Claimant stated that his Supervisor had volunteered to testify but had been unavailable on the date of the investigation. He did not, however, request a postponement in order that his Supervisor be available to testify.

This Board has ruled on numerous occasions that Carriers have a legitimate concern with regular attendance by their employes. When the amount or frequency of absence becomes excessive the use of progressive discipline is not unreasonable to make an employe aware that his level of absenteeism cannot continue if he expects to retain his job.

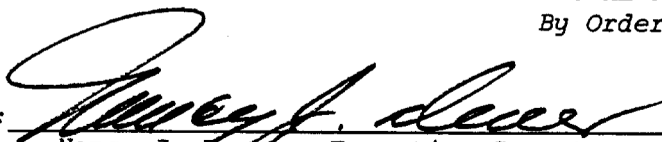
In the instant case, even after exclusion of the two incorrectly charged days, Claimant had 7 absences for a total of 12 days in a 9 or 10 week period. He made no effort to find out whether the first 3 day leave for his wife's illness had been approved, and his alleged conversation with his Supervisor about the second period was not corroborated. Under the circumstances the Board has no basis upon which to interfere with Carrier's determination that discipline was warranted.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 6th day of March 1985.