

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(
(Burlington Northern Railway Co.

Dispute: Claim of Employees:

1. That in violation of the current Agreement, Electrician Joan Hicks was unjustly disciplined by the Burlington Northern Railway Co., by the placement of a mark of censure on her personal record, as the result of an investigation held March 31, 1981.
2. That accordingly, the Burlington Northern Railway Co., be directed to remove from Electrician Hicks personal record the entry of censure, along with all record of the investigation.

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 Joan Hicks was at the time of this dispute an Electrician assigned to the Round House at Carrier's Facilities in Slendine, Montana. As a result of her absentee record, she was directed by her Supervisor to bring in medical verification each time she was absent. She failed to do so and was given a letter of censure stating that further action would be taken if the situation was repeated. A hearing into the matter was held on March 31, 1981.

A Transcript of that hearing has been made a part of the record of this case. A review of the total record reveals that Claimant in fact did refuse to comply with an order of her Supervisor. For that infraction, a letter of censure is not inappropriate. Petitioner contends that Montana law forbids employers from requesting medical information under these conditions. If Petitioner or the Claimant want to test the applicability of the Montana law to this situation, their case would have been better served if Claimant would have followed the industrial maxim of obey now and grieve later. Given her overt refusal to comply with the written directive, this Board has no recourse but to deny this claim.

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Award No. 10375
Docket No. 9557
2-BN-EW-'85

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 17th day of April 1985.