

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

Parties to Dispute: (International Brotherhood of Firemen and Oilers
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(Seaboard System Railroad

Dispute: Claim of Employees:

1. That under the current and controlling agreement, Laborer J. H. Wallace was unjustly suspended from the service of the Seaboard System Railroad for ten (10) days after a formal investigation was held on October 26, 1983.
2. That accordingly, Laborer J. H. Wallace be restored to service at Seaboard System Railroad, Tilford Yards, Atlanta, Georgia, and compensated for all lost time, vacation, health and welfare benefits, hospital, life and dental insurance premiums be paid November 11, 1983 through November 22, 1983, and the payment of 10% interest rate be added thereto.

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, J. H. Wallace, a laborer at the Carrier's Tilford Yards in Atlanta, Georgia, was in service from October 11, 1973 and was given a ten day actual suspension as a result of an investigation held on October 26, 1983.

The Claimant was one and one half hours late for his assignment on September 23, 1983. He called the Carrier 15 or 20 minutes prior to the start of his shift and advised the Carrier that he would be one half hour late. On September 24, 1983 the Claimant did not report at his regular starting time and his Foreman was in the process of trying to call him when the Claimant called in one half hour after the start of his shift and stated that he had fallen asleep while waiting for a taxicab. On that occasion the Claimant reported to work one hour late.

The Organization argued that the Carrier violated Rule 28, which calls for fair hearings in that the Claimant was charged with violations of Rules 12 and 26 and that the Rule 26 violation was not specified in the letter. In addition the Organization stated the tardiness was beyond the Claimant's control because he had car trouble and the taxicab which he ordered on the following day when he continued to have car trouble did not arrive.

The Carrier argued the proceedings were indeed fair, the Claimant was given due notice, and the investigation was conducted as required by Rule 28 of the Agreement. The Carrier also stated that it is the Claimant's responsibility to keep his automobile in good repair. It was noted that transmissions generally give some warning before they become unserviceable and, in general, it is the Claimant's responsibility to make sure that he reports to work for his shift in a proper manner. Finally, the Carrier argued that the Claimant had been absent from his assignment on 94 occasions during 1983 and had been the subject of several formal warnings regarding poor attendance.

Upon complete review of the evidence presented, this Board finds that the investigation was held in a fair manner as required under Rule 28. The Claimant has the responsibility to report to work. There was no showing that either incident could not have been avoided if the Claimant had exercised reasonable care and caution. This is particularly true in light of the attendance record of this Claimant. He should have been particularly aware of the consequences of failure to protect his assignment. It is the opinion of the Board that the penalty assessed by the Carrier is more than fair and reasonable and, therefore, we will deny this claim.

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 23rd day of October, 1985