

The Second Division consisted of the regular members and in addition Referee Leonard K. Hall when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers  
(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company violated the current agreement when it unjustly and unfairly dismissed Electrician Charles Ferguson from service on January 24, 1984 for alleged excessive absence from work.

2. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company be ordered to make Electrician Charles Ferguson whole by reinstating him to service with all of his seniority and other rights unimpaired, compensating him for all lost wages (including 18% A.P.R. interest thereon) and benefits, and clearing his record.

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.

On December 28, 1983, the Claimant was notified that a formal Hearing would be held January 5, 1984 to develop the facts and circumstances and determine his responsibility, if any, for failure to protect his assignment on December 6, 7, 24 and 25, 1983, and failure to notify his Supervisor as early as possible that he would be detained from work on December 24 and 25, 1983.

At the Investigation the Claimant answered "yes" to the Investigating Officer's question as to whether he was in agreement with the testimony that he was absent from his assignment without notification to his Foreman on December 6. His explanation was that when he went out to start his van, he found that it was gone, panicked and forgot to call the Foreman. He went to

the Police and later he and a friend found the van with the battery and other items missing. He borrowed a battery and got the van home. The next day, December 7, he testified that he was not successful in borrowing a battery, got home about 2:30 P.M. and telephoned the Diesel House, his reporting station.

As the Investigation proceeded, he was asked if he could provide the Police Report and he responded "Possibly if I go back over there". Thereupon the Investigating Officer stated:

"I would counsel you that although transportation is the employe's obligation, if you could obtain documentation that your van was stolen within the next several days, I would allow such documentation to be attached to the transcript of this hearing".

The Claimant made no response. Nothing appears in the record submitted to the Board to show that the suggested documentation was secured. That was an obligation resting with the Claimant to produce it, not the Carrier.

The Claimant further testified that on December 22 he went to Michigan for two days of rest and when he tried to start the van on Saturday, December 25, it would not start. He said he was stranded in the woods in Michigan until Sunday afternoon in cold weather, having no phone or phone number with him to call the Foreman, family or friends in the Chicago area.

As the Investigation was closing, the Local Chairman and the Claimant were each given opportunity to make closing statements. The Local Chairman's statement reads:

"Yes, if Mr. Ferguson comes up with a police report to show that his van was stolen 12/6/83, I hope that they will understand the reason he was not able to get to work on the 6th. He did call in on the 7th and notified that he could not be here. The 24th and 25th had trouble with his van in Michigan, the gasline froze up which he did not have anything in the gasline to keep it from freezing. He did notify us as soon as he got back. I hope they will take this in consideration".

The Claimant's closing statement reads:

"Yes I would like to state that I understand the Diesel House responsibility to put out a certain amount of work and productivity and that the Diesel House looks for a certain amount of manpower to help that productivity and that in my absence that productivity could not be maintained. My intentions were to be here on those days and it was my fault the transportation caused my absence. I won't let it happen again".

The Claimant having accepted fault in this matter, we are not required to address the Organization's charges of imperfect procedures by the Carrier.

We do hasten to add that the Organization's attention was directed to the Claimant's record wherein he was reinstated by Board Award without back pay on July 21, 1983, following his dismissal in April, 1981, for excessive absenteeism and, further, that he received a letter dated November 10, 1983, in regard to his further absenteeism just less than thirty days prior to the series of absenteeism referred to in this dispute.


The record shows that the Claimant has been afforded a number of opportunities to improve his work record, but to no avail. We will deny the Claim.

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 25th day of June 1986.