

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(National Railroad Passenger Corporation (Amtrak))

Dispute: Claim of Employees:

1. That under the current Agreement the National Railroad Passenger Corporation (AMTRAK) has unjustly dismissed Sunnyside New York Electrician Ms. Debora Shoy from service effective August 8, 1985.

2. That accordingly the Carrier be ordered to restore Electrician Debora Shoy to service with seniority unimpaired and with all pay due her from the first day she was held out of service until the day she is returned to service, at the applicable Electrician's rate of pay for each day she has been improperly held from service; and with all benefits due her under the group hospital and life insurance policies for the aforementioned period; and all railroad retirement benefits due her, including unemployment and sickness benefits for the aforementioned period; and all vacation and holiday benefits due her under the current vacation and holiday agreements for the aforementioned period; and all other benefits that would normally have accrued to her had she been working in the aforementioned period in order to make her whole; and expunge her 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 were given due notice of hearing thereon.

At the time of the occurrence giving rise to the dispute herein, Claimant was employed as an Electrician at Carrier's Sunnyside Yard, Long Island, New York. On July 19, 1985, a Citation was issued against Claimant to attend an Investigation at 2:30 P.M., July 26, 1985, on the charge:

In the handling of the dispute on the property and in its Submission to this Board the Organization objected to the inclusion of Foreman Adamo's statement of August 7, 1985, as part of the record. The objection on appeal came too late. If objection were to be made, such objection should have been made in the Investigation. Numerous Awards of the Board have held that if exceptions are to be taken as to the manner in which an Investigation is conducted, such exceptions must be taken during the course of the Investigation; otherwise, they are deemed waived. (Second Division Award No. 9972.)

We find that Carrier made every reasonable effort to notify Claimant of the Investigation to be conducted on August 2, 1985. As stated in Second Division Award No. 8694:

"...the carrier is not the guarantor that the Claimant will receive actual notice. Sending a notice by certified mail to claimant's residence is reasonable. Furthermore, if the claimant had been more diligent in retrieving his mail from the post office, he would have known about the investigation. He is estopped from blaming the carrier for his own dilatory conduct."

See also Third Division Awards 13757, 15007, 15575, 21695.

Claimant was under an obligation to notify Carrier of any change in her address, and to notify postal authorities as to forwarding of mail. We hold that Claimant's failure to appear at the Investigation rescheduled for August 2, 1985, was at her peril. As stated in Second Division Award No. 9943:

"The Organization complains that the investigation was conducted in Claimant's absence. Many awards have been issued by the Board upholding the conducting of investigations 'in absentia.' Claimant's failure to appear after proper notice, or to request a postponement, was at his peril. See Third Division Award Nos. 24609, 24550 and 24546."

There was substantial evidence in the Investigation in support of the charge against Claimant. An employee's past record may always be properly considered in determining the discipline to be imposed for a proven offense. (Second Division Awards Nos. 8467, 10038.) Claimant's prior record with respect to absenteeism was far from satisfactory. Unauthorized absence from work during assigned hours is a serious offense and frequently results in dismissal from service. (Second Division Awards Nos. 10038, 8796, 6855, 6710.)

There is no proper basis for the Board to interfere with the discipline imposed by the Carrier.