

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 11569  
Docket No. 11427  
88-2-87-2-73

The Second Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers  
(Port Authority Trans-Hudson Corporation (PATH))

STATEMENT OF CLAIM:

1. Appeal of dismissal from service of Power Rail Helper F. O'Connor by the Port Authority Trans-Hudson Corporation (PATH) effective October 18, 1986.

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

Although scheduled to work on June 20, and 23 through 27, 1986 and September 22 and 24, 1986, Claimant, a power rail helper, did not report on those dates and further did not notify the Carrier prior to his starting time that he would be absent. On September 19, 1986, Claimant was instructed by his foreman to leave a work train and come out to work with a work gang. Claimant did not do so. On September 23, 1986, Claimant was absent from work from 6:45 a.m. to 7:30 a.m.

During the period March 21, 1985 through June 5, 1986, Claimant's disciplinary record shows a written reprimand and suspension of three days, two weeks, three weeks and two months for absence related problems.

We find substantial evidence in the record to support the Carrier's determination that Claimant failed to report off, was insubordinate and absented himself from duty without permission in violation of Rules 7, 10, 26 and Article VII, Section C. The Organization's arguments do not change the result. We have examined the record and do not find that the Hearing Officer's

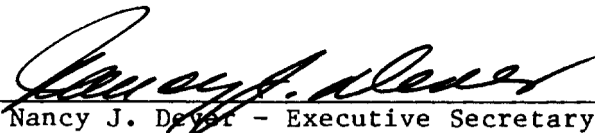
conduct of the hearings could be considered unfair. Nor do we find that holding the hearings in abstentia was improper. Certified letters dated July 2 and 8, August 11 and September 26, 1986, were sent to Claimant notifying him of the charges and the hearing dates. According to the record, Claimant's signature appears on the letters notifying him of the hearings. Thus, Claimant was well aware of the proceedings and the charges against him. Although Claimant's representative appeared at the hearings, Claimant did not. In light of Claimant's prior discipline for similar misconduct (which we consider only for determining the propriety of the amount of discipline), we are unable to say that dismissal from service was either arbitrary or capricious.

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 31st day of August 1988.