

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  
(Consolidated Rail Corporation)

STATEMENT OF CLAIM: Appeal of discipline of seven-day suspension assessed against Altoona, Pennsylvania Electrician M. F. Cogan by the Copnsolidated Rail Corporation as shown on Notice of Discipline dated August 6, 1985.

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, employed as a Crane Operator at Carrier's Reclamation Plant, Hollidaysburg Car shop in Altoona, Pa., was instructed to attend a trial on July 18, 1987, on the charge:

"Being absent from your assignment as crane director, Reclamation Plant, Hollidaysburg Car Shop, on June 25 and June 26, 1985, which in light of your past attendance record constitutes 'excessive absenteeism'."

The trial was conducted as scheduled and a copy of the transcript has been made a part of the record. We have reviewed the transcript and find that the trial was properly conducted. None of Claimant's agreement rights was violated.

It is not disputed that Claimant did not work on June 25 and June 26, 1985. Claimant testified that he did not work on June 25 and June 26, 1985, because of sickness "flu, diarrhea and throwing up." The Carrier's record, introduced in the trial indicated that Claimant had called in and reported off sick on June 25 and June 26, 1985. Following the trial, Claimant was assessed discipline of seven days suspension, the Carrier stating that the suspension was deferred under Rule 6-A-4(b).

Sickness is generally accepted as a valid reason, or good excuse, for being absent from work. It is not unusual for employees to lay off from work because of sickness. If the Carrier desired proof of Claimant's illness, it could have demanded it, but Carrier having accepted the absences of the two days as sickness, we consider the Carrier as not on good grounds in using the two dates to trigger a charge of excessive absenteeism. See Second Division Award No. 11181 involving the same parties.

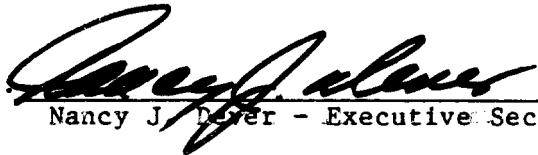
We will sustain the claim to the extent of ordering that any discipline assessed Claimant as a result of the charge of June 27, 1985, be expunged from his record. If, as the Carrier contends, the discipline was deferred and Claimant lost no time, then no payment would be due.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of November 1988.