

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

PARTIES TO DISPUTE: ((International Association of Machinists and
(Aerospace Workers
(Southern Railway Company

STATEMENT OF CLAIM:

1. That the Southern Railway Company violated the controlling Agreement, Rule 34, but not limited thereto, when they unjustly suspended Machinist R. H. Jackson, Atlanta, GA., from service without pay, beginning 10:45 AM on May 28, 1987 and ending on May 29, 1987 at 12 midnight.

2. That accordingly, the Southern Railway Company be ordered to pay Machinist R. H. Jackson for all lost time wages, with all rights unimpaired and clear his record of the charge.

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.

A preliminary Investigation was held on May 7, 1987, to determine Claimant's responsibility, if any, for his asserted failure to protect his assignment on four (4) separate occasions within the period April 8, 1987, through May 7, 1987. Based on the evidence developed at this proceeding, and further taking into consideration his past disciplinary record, Carrier assessed a two (2) day actual suspension. Said discipline was held in abeyance pending a formal investigation, and following this latter hearing, held on May 19, 1987, the Superintendent of the Atlanta Motor Shop affirmed the disciplinary suspension.

In defense of his petition, Claimant vigorously contended that he was late for just cause, since on three occasions, specifically, April 20, 22, and 23, 1987, the time clock was running fast and thus were not synchronized with the whistles in the motor shop. In other words, Claimant maintained that he was indeed on time, but the time clock registered an inaccurate entry time. Furthermore, he observed that on May 5, 1987, when he was late fifty-one (51) minutes, he inadvertently overslept due to a recurring nervous condition. His testimony at the May 19, 1987, hearing, referenced hereinafter, sets forth in detail his experience on the morning of May 5, 1987.

"Well, I do have a nervous condition from time to time. After a number of years it often causes me to sleep sound. On this particular day or night I went into another bedroom but I thought I could still hear the alarm go off and I didn't move it because it is a digital clock and it takes time changing it and I was having nervous problems at the time and when I felt like I could get up that morning but I didn't. I didn't hear the clock, what woke me was my sons clock about 30 or 45 minutes later. That is when I was late on that particular day."
(See investigative transcript p. 25).

Carrier disputed his assertion that the time clock was running fast, noting instead, that the testimony of several machinists clearly established that the time clock was properly synchronized. It also pointed out that notwithstanding his emotional condition on May 5, 1987, he still was late that morning and failed to protect his assignment. Accordingly, it argued that in view of these findings, and Claimant's past disciplinary record, which included five (5) letters of reprimand for the same charged offense, the instant suspension was warranted and in no way excessive or arbitrary.

In considering this case, the Board concurs with Carrier's findings and disciplinary assessment. As per Carrier's General Conduct Rules, specifically, Rule GR-6, employees are mandated to report for duty at the designated time and place. It is a time specific non-discretionary requirement. We have carefully reviewed the investigative record to ascertain whether the coordinative linkage between the time clock and the whistle was unsynchronized, but we find no evidence to support Claimant's defensive assertions. In addition, even conceding that his nervous condition contributed to his lateness on May 5, 1987, he obviously failed to take precautionary actions when he slept in another room. The end result of his inattentiveness was the fifty-one (51) minutes lateness. Upon the record, the evidence fully supports the charge that Claimant failed to protect his assignment on the cited days and, as such, given his past disciplinary record for the same offense, the suspension imposed was consistent with the normative tenets of corrective discipline.

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 6th day of December 1989.