

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12163
Docket No. 12150
91-2-90-2-292

The Second Division consisted of the regular members and in addition Referee Hugh Duffy when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists and
(Aerospace Workers
(
(CSX Trans., Inc. (Former Seaboard Coast Line
(Railroad Company)

STATEMENT OF CLAIM:

1. That CSX Transportation, Inc. violated Rule 30, but not limited, thereto, of the controlling Agreement when it dismissed Machinist Apprentice E. Leviner, Jr. from service effective May 4, 1990 following an investigation held on April 11, 1990.

2. That accordingly, CSX Transportation be ordered to reinstate Mr. Leviner to service with seniority rights unimpaired, reimburse him for all pay and benefits lost (made whole) and remove all reference to the charges from 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.

Claimant was charged with insubordination for refusing to follow instructions to report to the office of the Plant Manager on March 7, 1990. Claimant had last reported for duty on February 6, 1990. After a Hearing in absentia on April 11, 1990, Claimant was found guilty as charged and assessed the penalty of dismissal.

After reviewing the record, the Board is satisfied that there is substantive evidence that Claimant was guilty as charged. Failure to follow proper orders is a most serious matter and may properly lead to dismissal. Although this Board has on many occasions held that it does not favor Hearings

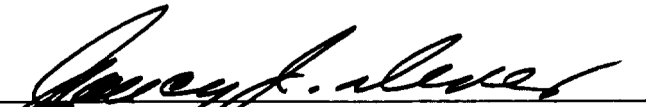
held in absentia, Claimant was properly notified of the Hearing and did not appear by his own choice. We therefore find no basis for disturbing the Carrier's decision in this matter.

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 9th day of October 1991.