

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM:

1. That the Chicago and North Western Transportation Company violated the current Agreement, effective December 1, 1985, in particular Rule 26, and the understanding dated January 24, 1990, when they arbitrarily dismissed Electrician Ricky L. Sullivan from service on January 26, 1990 and continues to unjustly withhold him from service.

2. That the Chicago and North Western Transportation Company reinstate Electrician Ricky L. Sullivan to service and make him whole for all wages and benefits lost account of this most unjust and arbitrary action.

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 served a notice of Investigation for insubordination for failure to remain on the property to take a toxicology test. On January 24, 1990 he waived a formal Investigation, and on January 25, 1990 was assessed the penalty of dismissal.

The Organization contends that Claimant executed the waiver in the belief that he would be returned to service after the completion of an alcohol abuse program. The Carrier subsequently declined to reinstate Claimant, resulting in the filing of the instant claim.

After a careful review of the record, the Board finds no evidence that any authorized official agreed to any conditions for the Claimant's future reinstatement. The record indicates that Claimant voluntarily signed the waiver and by doing so accepted the consequent discipline. Under Rule 26(g)(5) of the Agreement, discipline accepted in this manner is not subject to appeal, and the claim must therefore be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of January 1992.