

The Second Division consisted of the regular members and in addition Referee Nancy Connolly Fibish when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
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(Consolidated Rail Corporation

STATEMENT OF CLAIM:

Appeal from discipline of three (3) days suspension assessed L. M. McCord (#537525), Electrician, Juniata Locomotive Shop, Altoona, Pennsylvania, as shown on Notice of Discipline, Form G-32, dated November 17, 1988.

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.

On September 14, 1988, Carrier charged Claimant with excessive absenteeism, citing his absences for a full tour of duty on August 22 and September 13, 1988, a partial tour of duty on September 8, 1988, and the record of his prior absences from the period of April 5 to August 22, 1988, as the basis for the charge. An Investigative Hearing was held on October 26, 1988, following which the Employer assessed a 3-day suspension on November 17, 1992. Appeal of this three-day suspension was heard on December 23, 1988, but management denied this appeal.

The Organization is not contesting that the employee was absent on the dates in question. However, it claims that management did not establish a record of excessive absenteeism because, among other things, the employer had excused some of the absences (e.g., for sick leave), and that the employer violated the contract by charging the Claimant with absences outside the 30-day period permitted under Rule 6-A-3(a). It is requesting that management expunge the 3-day suspension from the Claimant's record.

The Carrier states that the legitimacy of the absences is not at issue but rather the number of absences over the April-September 1988 period. It also maintains that it was within the time limits called for within the 30-day provision under the above-cited rule.

The Board has examined the total file, including the record of the Hearing, and all the supporting arbitration decisions cited by both parties. The record of absences recorded for the five-and-a-half-month period under question totals 19: 9 full-day absences and 10 partial absences, ranging from one-half hour to an hour in some cases to three or four hours in others. That record was submitted by the Carrier at the Hearing. Also, the Claimant had received a letter of warning about his absences in June 1988 following oral discussion with his Supervisor.

The Board cannot accept the Organization's contention that the Carrier cannot properly include absences due, e.g., to sickness in determining whether there has been excessive absenteeism. As was noted in PLB No. 2945, Award 24, "the weight of arbitral authority holds that excessive absenteeism of an Employee, even if caused by genuine illness, is subject to discipline by Management . . . because the Employer is entitled to have its work needs accommodated by the Employee force and those Employees who cannot fulfill their attendance obligations . . . may be disciplined[.]" See also Special Board of Adjustment No. 910, Award 32 and PLB No. 2263, Award 37, both decisions concerning this Carrier.

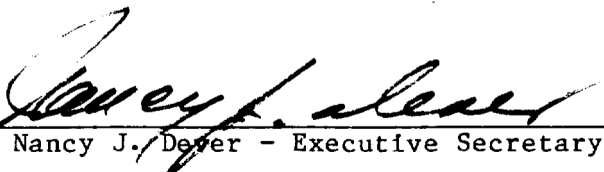
Nor can the Board accept the Organization's contention that Rule 6-A-3(a) precludes consideration of the Claimant's attendance record during the April 5 to August 22, 1988 period. Such an unreasonable interpretation of the rule would make it impossible to charge an employee with excessive absenteeism covering periods stretching beyond the most recent month. As was noted in Second Division Award 8546, "[e]xcessive absenteeism necessarily occurs over a somewhat extended period of time. If the Organization's position were sustained . . . excessive absenteeism could never be the subject of an Investigation, something obviously not intended by the parties." See also Second Division Award 10268. The three dates cited by the Carrier in its charge, which were within the 30-day period established by Rule 6-A-3(a), were the "triggering" dates that prompted it to take disciplinary action; but they did not preclude the Carrier from relying on the total number of absences during the previous five-month period in order to establish a record of absences that were excessive.

The definition of excessive absenteeism is a relative matter and must be decided on a case-by-case basis. We find that the instances of absences over the period in question in this case are sufficient to constitute excessive absenteeism. We accordingly affirm the Carrier's action.

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 22nd day of April 1992.