

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12612
Docket No. 12542
93-2-92-2-66

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers)
(Southern Pacific Transportation Company)
(Western Lines)

STATEMENT OF CLAIM:

- "1. That under the current Agreement, Mechanical Department Electrician D. A. Bilton was unjustly treated when she was dismissed on March 27, 1991, following formal hearing held on February 28, 1991 and March 6, 1991 for failure to comply with the stipulations of a conditional reinstatement dated July 31, 1989 with the Southern Pacific Transportation Company (Western Lines).
2. That accordingly, the Southern Pacific Transportation Company be ordered to restore Electrician D. A. Bilton to service with all rights unimpaired, including service and seniority, vacation, payment of hospital and medical insurance, group disability insurance, railroad retirement contributions, and loss of wages including interest at the rate of ten percent (10%) per annum."

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 employe 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 relevant facts show that on July 31, 1989, the Claimant signed a conditional reinstatement form which required her to totally abstain from the use of alcohol and drugs; that she participate in a rehabilitation program approved by the Carrier's Employee Assistance counselor ("EAC"); that she attend two AA meetings per week; that she contact her EAC once a month; that she would be subject to random unannounced alcohol and drug tests and that any failure to protect her assignment had to be substantiated and verified. The form also stipulated that failure to comply with the conditions for reinhabilitation would result in the Claimant's dismissal from the service.

Before addressing the merits of this claim, the Board requests that in all future claims only one party provide a transcript of the hearing. This is the customary practice followed by most parties. The normal procedure is for the Carrier to serve in that capacity. Duplicate hearing transcripts provide an unnecessary burden upon the parties, the Board Members, and the administrative persons who must handle the file at the Board.

On July 11, 1990, and October 15, 1990, the Claimant provided a urine specimen that tested positive for prohibited drugs. The evidence also shows that the Claimant missed 20 work days between August 1, 1990 and October 11, 1990. For five of those days, the Claimant provided medical verification; however, this verification shows that she was not disabled and could have worked. She also failed to comply with the other conditions specified in the form that the Claimant signed on July 31, 1989.

The case at hand is the Claimant's third violation of a conditional reinstatement involving a Rule "G" violation. She had been returned to duty on July 31, 1989, on a conditional basis. Because the drug and alcohol screen conducted December 12, 1989, revealed the presence of prohibited drugs in the Claimant's system, she was dismissed. Her appeal of that dismissal was progressed to this Division and resulted in a denial Award (Second Division Award 11998).

Clearly, given the foregoing background and in light of the Claimant's present failure to comply with the employment conditions that she had agreed to, we have no basis to set aside the Carrier's disposition in this claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: *Catherine Loughrin*
Catherine Loughrin Interim Secretary to the Board

Dated at Chicago, Illinois, this 17th day of November 1993.