

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12616
Docket No. 12553
93-2-92-2-82

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

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

STATEMENT OF CLAIM:

- "1. That under the current Agreement, Mechanical Department Electrician W. P. Roberts was unjustly treated when he was dismissed from service on June 14, 1991, following investigation for alleged violation of portion of Rule 810 of the General Rules and Regulations of the Southern Pacific Transportation Company (Western Lines).
2. That accordingly, the Southern Pacific Transportation Company be ordered to restore Electrician W. P. Roberts to 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 six percent (6%) 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.

On November 15, 1989, the Claimant agreed to a conditional return to duty. The mutually agreed upon terms required that he abstain from alcohol/drugs; that he attend AA or NA meetings twice each week; that he remain in contact with his counselor and that he

be subject to random drug testing. Failure to comply with any of these conditions would result in his dismissal from the Carrier's service.

Because the Claimant did not report for duty for a period exceeding 40 days, he was charged with a failure to comply with the conditions of his conditional reinstatement which he signed on November 15, 1989. Subsequently, a hearing was held in absentia and the Carrier severed the employment relationship with the Claimant.

With respect to the hearing held in absentia, we find that it was conducted in a fair and proper manner. While the Board does not favor hearings without the presence of the person most affected, the Carrier's decision to proceed without the presence of the Claimant was not an abuse of its discretion. The Carrier attempted to send its notice of Investigation to the Claimant on three different dates. It was returned each time unclaimed. The employee has an obligation to keep his employer informed of his current address. The Carrier has no obligation to go beyond reasonable means to deliver its notice letter. Barring highly unusual facts or circumstances, the Carrier is not required to go beyond its actions in the instant case, with respect to the matter of proper notification. Moreover, the Board notes that the Organization represented the Claimant at the hearing and actively pursued all relevant issues.

With respect to the merits, the Claimant clearly violated the conditions for his reinstatement and Carrier Rule 810. Accordingly, there is no basis to disturb the discipline assessed by the Carrier.

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.