

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12619
Docket No. 12575
93-2-92-2-118

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
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

- "1. That the Union Pacific Railroad Company violated the current agreement and in particular Rule 37, when W. L. Springborg received a ninety (90) day suspension by letter dated July 29, 1991.
2. That accordingly the Union Pacific Railroad Company be ordered to expunge any of this disciplinary action and Mr. Springborgs' record be kept free of this unfair form of discipline."

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 employee 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.

Before addressing the procedural and substantive aspects of this dispute, the Board is compelled to make several observations on matters that affect the review process. We have noted before, and we note again for the benefit of these same parties, that both have provided copies of the transcript of the hearing. This practice is unnecessary and causes additional effort and expense for all concerned, including this Board. We recommended that the parties agree that only one party provide a copy of the transcript; normally that party has been the Carrier. Second, the record

developed on the property contains a number of irrelevant issues and other issues which have, at best, only a tangential impact on the controlling questions. Some matters raised can properly be characterized as "petty" and do not contribute to the prompt and effective resolution of disputes. The Board also recommends that the parties make an effort to set forth the case as clearly and precisely as possible so as to avoid irrelevant, petty and marginal disputes of little or no consequence.

With respect to the claim at hand, the relevant portion of the record developed on the property shows that on May 14, 1991, the Claimant by letter requested an additional 30 days Leave of Absence. On May 21, 1991, the Carrier's Manager of Car Maintenance ("Manager") wrote to the Claimant. The Manager stated, in part, that the Organization had "indicated that they will not approve such leave of absence." The Claimant was also told in that same letter that he was to report to the Carrier "no later than Friday, May 31, 1991."

On May 22, 1991, the Organization wrote to the Carrier protesting the Carrier's decision which required the Claimant to report for duty on May 31, 1991. The Carrier did not respond to the May 22, 1991 letter for reasons not brought forth in the record. While it is apparent from the record before the Board and the content and tone of the letters exchanged between the parties that their relationship is not particularly productive or constructive, official correspondence cannot be ignored and left unanswered.

In any event, on July 1, 1991, the Claimant was requested to attend an Investigation. He was charged with being absent from duty without proper authority beginning on May 17, 1991, and failure to follow the instructions issued to him on May 21, 1991. Subsequent to the investigation, he was found guilty of all charges and assessed a 90 day deferred suspension, the discipline before the Board at this time.

Following a number of letters between the parties which, as noted earlier, contained many issues having little or no relevance to the issue at hand, the claim was progressed to this Board.

We have carefully reviewed the procedural arguments presented. However, we find no basis to set these proceedings aside on that basis.

With respect to the merits, in essence, this is a case where the Claimant should have complied with the Carrier's instructions of May 21, 1991, and grieved later if he still believed that his case had merit.

The Claimant had requested a 60 day Leave of Absence on April 18, 1991. That was specifically denied and he was granted a 30 day leave which ended on May 17, 1991. The assertion and arguments presented that his Leave was of a continuing nature flies in the face of the Claimant's own actions and his own testimony at the hearing. Testimony and correspondence developed on the property shows that the Claimant requested an extension beyond the 30 days that had been approved by the Carrier. Therefore, his behavior, as supported by the testimony at the hearing shows that he understood that his absence was approved only for a 30 day period.

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.