

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISIONAward No. 12741  
Docket No. 12612  
94-2-92-2-141

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

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

STATEMENT OF CLAIM:

"Appeal of dismissal from service of Radio Maintainer R. C. Love, Indianapolis, Indiana, by the Consolidated Rail Corporation on October 10, 1991."

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.

Claimant was employed by Carrier as a Radio Maintainer in Indianapolis, Indiana. By notice dated September 26, 1991, Claimant was instructed to attend a trial on October 3, 1991, in connection with the following charges:

- "1. Your failure to protect your assigned position on: September 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, and 25, 1991 per Rule 8-I-2 of the IBEW Agreement effective May 1, 1979.
2. Your failure to protect your assigned position on September 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, and 25, 1991 which, in light of your previous record, constitutes excessive absenteeism."

A hearing into the charges was held as scheduled on October 3, 1991. Claimant did not appear at the hearing, although he was properly notified of the time and place. On the day of the hearing, his Union Representative attempted to contact him by phone, but to no avail. The hearing was held in absentia. As a result of the hearing, Claimant was found guilty as charged. When his past record of absenteeism was considered, Carrier chose to dismiss him.

This Board has reviewed the transcript of the hearing, together with the remainder of the record. Based on this review, the Board has concluded that Carrier had just and ample cause to terminate Claimant. Claimant is an employee who has a difficult time coming to work on a regular basis. He has received a three-day and ten-day deferred Suspension and a 30-day Actual Suspension for excessive absenteeism. Carrier has been more than considerate of Claimant in this regard. Carrier is no longer required to maintain Claimant in its employ. He failed to appear at work at his own peril.

AWARD

Claim denied.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Dated at Chicago, Illinois, this 13th day of September 1994.