

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 13020
Docket No. 12922
96-2-94-2-73

The Second Division consisted of the regular members and in addition Referee Robert L. Hicks when award was rendered.

(Brotherhood Railway Carmen - Division
(Transportation Communication International
(Union
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

- "1. That the Springfield Terminal Railway Company (hereinafter referred to as the Carrier) violated the terms of the current Controlling Agreement, specifically, Rule 17, when it arbitrarily suspended Carman N. J. Cremonese (hereinafter referred to as Claimant) from active service and assessed a ten (10) day actual suspension as a result of investigation held on June 8, 1993.
2. That accordingly, the Springfield Terminal Railway Company be ordered to compensate the Claimant in the amount of eight (8) hours pay for each workday he was withheld from service, a total of ten (10) days suspension, not including any overtime the Claimant was deprived of during his suspension.
3. That this discipline be expunged from the Claimant's personal record and that he be made whole for any other benefits he would have earned during his suspension time."

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 served a Notice of Investigation in connection with excessive and chronic absenteeism.

During the Hearing, it was developed that Claimant lost 75 hours of work from February 6 thru May 19, 1993 for reasons other than ill health and/or injury which the Carrier deems excessive, and when coupled with the absences and/or missed hours of work developed by Claimant since 1991, the rate of absence is considered chronic.

Claimant attempted to justify some of his absences on medical grounds and furnished copies of several emergency room bills for specific dates. The Organization attempted to justify some lost time on the basis that his working with less than eight hours between driving stints would place him in violation of the DOT hours of service requirement. Claimant had a Commercial Drivers License and was driving a truck for the Carrier.

This Board's authority to arbitrate disputes extends only to Agreements mutually agreed upon between the parties. It has no authority to, nor interest in, interpreting anything other than contract Rules and/or Agreements.

The medical bills presented by Claimant were deemed inconclusive by the Carrier as there is no evidence of the time Claimant sought emergency treatment and whether such visits caused him to lose time account seeking such service.

Claimant is a relatively new employee who established a rather abysmal record of absenteeism which, to date, the Carrier has been unable to correct through counseling, written censure and a five day suspension.

The claim will be denied.

AWARD

Claim denied.

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ORDER

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 21st day of August 1996.