

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

**Award No. 13554**

**Docket No. 13416**

**00-2-99-2-12**

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

**PARTIES TO DISPUTE:** (Sheet Metal Workers' International Association  
(CSX Transportation Inc. (former Chesapeake and Ohio  
( Railway Company)

**STATEMENT OF CLAIM:**

- “1. CSX Transportation, Inc., (C&O) Railway Co.) violated the provision of the current controlling agreement when they improperly terminated Sheet Metal Worker T. E. Williams by letter dated June 15, 1998, as the result of an investigation which was held on Tuesday, May 12, 1998 on a charge of excessive absenteeism.
2. That accordingly CSX Transportation, Inc., be required to remove the discipline from Mr. William's record and that he be returned to service with all seniority unimpaired, making him whole for all money and benefits which he may have lost as a result of being dismissed.”

**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 were given due notice of hearing thereon.

Claimant Williams, at the time serving as Roadway Equipment Repairman at the Bryan Park Roadway Equipment Shop, Richmond, Virginia, was directed to report for a formal Investigation on May 6, 1998 to answer charges of unauthorized absence and unsatisfactory attendance. At that Hearing, ultimately conducted on May 12, 1998, the Carrier determined that the Claimant had been absent from his assignment on April 20, 21, 23 and 27 without permission, and that since being returned to service on March 2, 1998 after an earlier termination had been absent from his assignment in excess of 103 hours. His record reflected 11 instances of absence without authorization, one sick day, and two absences with permission.

The Claimant conceded that he had not obtained permission to mark off on some of the dates at issue. He could not recall what caused several absences and offered tooth problems, car trouble, court appearances, illness and family illness as the reasons for the others. After consideration of the Claimant's attendance pattern and past record in this regard, by letter of June 15, 1998 the Carrier discharged him from employment.

The record indicates that the Claimant had been previously dismissed for excessive absenteeism on February 12, 1996. The circumstances attending that matter were in large part identical to the facts before the Board - failure to report for his assignment without calling, or calling at the last minute to advise of illness, court appointments, car problems and the like. On January 20, 1998, Public Law Board No. 5843, Award 4 reinstated him with seniority unimpaired, but without backpay after a period of two years out of service. That Board admonished the Claimant to consider its decision as a warning that future violations of a similar nature need not be tolerated by his supervisors and could lead to termination. He had been in pay status approximately two months at the time of the dismissal now under consideration.

Based upon our review of the record evidence, we conclude that the Carrier's determination was appropriate under the circumstances and procedurally regular in all respects. The claim accordingly must 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 29th day of September, 2000.**