

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 7217
Docket No. 7057
2-L&N-MA-'77

The Second Division consisted of the regular members and in addition Referee Gene T. Ritter when award was rendered.

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
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(Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

Claim in behalf of Machinist L. T. Boeshart, South Louisville Shops, for pay for all time lost, seniority rights, vacation, insurance and all other rights unimpaired, beginning with his dismissal December 11, 1974 and continuing until the matter is settled.

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.

The facts in this dispute disclose that Claimant entered Carrier's service as a machinist's apprentice on June 25, 1968 and established seniority as a machinist on July 5, 1973. On October 1, 1974, Claimant did not report for his regular assignment beginning at 7:00 o'clock a.m.; that shortly after 7:00 o'clock a.m., he called and stated he would be in about 11:00 o'clock a.m. Claimant failed to show up and did not call back. The record discloses that Claimant had failed to protect his assignment without permission in the past and had a record of absenteeism. This Board finds that Carrier proceeded in accordance with the discipline rule, Rule 34, in taking the disciplinary action of dismissing Claimant from service. This Board finds that the investigation was held in accordance with the discipline rules contained in the Agreement. Claimant was afforded a fair hearing by the designated officers of the Carrier. The punishment was not arbitrary or capricious and the evidence sustains and upholds the punishment imposed by the Investigation Officers in this instance.

However, we find that there were certain mitigating circumstances that could possibly make the discipline of dismissal excessive. It is, therefore the opinion of this Board, in accordance with Award No. 6985 and 6960, that the discipline imposed by Carrier has served its purpose. We, therefore, order that Claimant return to service without back pay, but with all other rights unimpaired. We order the disciplinary action be made part of Claimant's record. Claimant should make every effort to mend his ways and understand that it is absolutely necessary that he maintain a reasonable attendance record and become a dependable employee of Carrier. Claimant should accept the opinion of this Board as a final opportunity to correct his improper conduct and to fully live up to his obligation to his job.

A W A R D

Claim sustained to the extent indicated in findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 25th day of January, 1977.