

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: (System Federation No. 4, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(Chesapeake and Ohio Railway Company

Dispute: Claim of Employee:

1. That the Chesapeake and Ohio Railway Company violated the current Agreement when it unjustly dismissed Electrician Tommy D. Roop on October 17, 1974.
2. That, accordingly, the Chesapeake and Ohio Railway Company be ordered to restore Electrician Tommy D. Roop to service with seniority unimpaired and compensate him for all time lost subsequent to and including October 17, 1974, and restore all other benefits he would have had if he had remained in service.

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 Claimant, Electrician T. J. Roop was notified by letter dated September 16, 1974, to attend an investigation to be held on September 23, 1974, on the following charges:

"You are charged with responsibility in connection with your willful neglect of duty by absenting yourself from duty without permission and conduct unbecoming an employe during your assigned hours 11:00 P.M., August 31, to 7:00 A.M., September 1, 1974 at or about 5:00 A.M., Eastern Daylight Saving Time, September 1, 1974 at Shelby, Kentucky."

The investigation was held on September 23, 1974. Thereafter, by letter dated October 17, 1974, the Carrier notified the Claimant that he had been found guilty of the charges and that he was dismissed from the service of the Carrier. The record of the investigation along with all other pertinent documents are now before this Board.

We find that the Claimant received proper notice of the investigation and was given a proper charge. We find that the Claimant and his able representative were given full opportunity to question all witnesses and to present the Claimant's case as they chose. We find that there is substantial evidence in the record before the Board to support the Carrier's finding of guilt on the charges brought against the Claimant. We find from the narrow circumstances of the record before us, including the Claimant's clear service record, that the discipline of dismissal is excessive. We therefore order that the Claimant be restored to service with all rights unimpaired but without back pay or any other back monetary benefit.

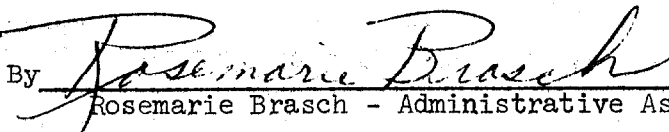
A W A R D

Claim sustained as per findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 5th day of July, 1977.