

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: (Sheet Metal Workers' International Association
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(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated the controlling Agreement, particularly Rules 1, 17, 32(a) and 33 when Sheet Metal Worker Al Meyer Jr. was refused permission to work his assigned position at 400 Yard Ramp Diesel Shops, North Little Rock, Arkansas.
2. That accordingly the Missouri Pacific Railroad Company be ordered to compensate Sheet Metal Worker Al Meyer Jr. seven (7) hours and twenty (20) minutes for such violation.

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.

Claimant reported for work 42 minutes late, without prior notice of tardiness to his supervisor. Based on the consideration that a replacement had been called from the overtime roster, claimant was denied the opportunity to work for his assigned tour and was sent home. The Organization cites the following rule excerpts as being violated by the Carrier in this action:

Rule 1 Hour of Service

"(a) Eight hours of service shall constitute a day's work."

Rule 17

"Employees shall not lay off without first obtaining permission from their foreman to do so except in case of sickness or other good cause of which the foreman shall be promptly advised."

Rule 32 (a)

"An employe covered by this agreement who has been in service more than 30 days or whose application has been formally approved shall not be disciplined or dismissed without first being given a fair and impartial investigation by an officer of the railroad."

Rule 33

"The Company will not discriminate against any Committeeman who from time to time represent other employes and will grant them leave of absence ... when delegated to represent other employes."

No basis whatsoever appears for finding violation of Rule 1 or 33. As to Rule 32(a), the Board finds that Carrier's position entirely tenable when it states that sending the claimant home was not disciplinary action, but rather resulted from his reporting late without advance notice, causing the calling in of another employe. As to Rule 17, the portion referred to by the Organization simply grants employes a right to "lay off" where the absence is caused by "sickness or other good cause of which the foreman shall be promptly advised." Even assuming that in this instance the claimant advised his foreman as "promptly" as possible -- that is, by reporting to work -- the rule does not go to the issue as to whether the Carrier is required to give work to an employe reporting late.

The Carrier's action in calling for a replacement violates no rule. In addition, it was a reasonable act, given the admitted necessity of having a full crew of two of claimant's craft and given claimant's past history of tardiness and "no report".

Having reported late without advance notification, the Claimant is in a tenuous position to demand, as a right, assignment to part of his assigned shift. The Carrier's action did not constitute discipline. The Organization has failed to show any rule violation.

A W A R D

Claim denied.

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 1st day of November, 1977.