

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

Parties to Dispute:

(International Association of Machinists and
(Aerospace Workers

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(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company unjustly removed Machinist Helper C. A. Abraham from service on May 12, 1975 for allegedly being absent from his assignment without proper authority April 4, 5 and 6, 1975.
2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Machinist Helper C. A. Abraham at the pro rata rate of pay for each work day beginning May 12, 1975 until he is reinstated to service.

In addition, he receive all fringe benefits accruing to any other employee in active service, including vacation rights and seniority unimpaired.

3. Claim is also made for Machinist Helper C. A. Abraham's actual loss of payment of insurance on his dependents and hospital benefits for himself, and that he be made whole for pension benefits, including Railroad Retirement and Unemployment Insurance.

In addition to the money claimed herein, the Carrier shall pay Machinist Helper C. A. Abraham an additional sum of 6% per annum, compounded annually on the anniversary date of said claim, in addition to any other wages earned elsewhere in order that he may survive.

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, Machinist Helper C. A. Abraham was dismissed from the service of the Carrier by letter dated May 12, 1975, "for being absent from [his] assignment without proper authority on April 4, 5, 6, 1975." At the investigation held on May 1, 1975, substantial evidence of record was introduced by the Carrier to support its finding of guilt for the absence without proper authority on a portion of April 4, and the days of April 5, and 6. We find that the notice of the investigation was proper and that the charges were proven by substantial evidence. However, we find that the discipline of dismissal is excessive. Clearly the Claimant's past attendance record is properly a matter to be considered when assessing the proper discipline once a finding of guilt is made. However, in the instant case, the Carrier had rendered no formal discipline for the Claimant's past absentee and tardiness record. The Claimant shall be reinstated without back pay, but with all rights unimpaired. It is hoped that the discipline has served its purpose; and that the Claimant has come to value his job, and will protect his assignment at all times. Needless to say that any further pattern of tardiness and absenteeism may properly result in the Claimant's discharge.

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 2nd day of December, 1977.