

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

Parties to Dispute: { System Federation No. 22, Railway Employees'
{ Department, A. F. of L. - C. I. O.
{ (Firemen & Oilers)
{
{ St. Louis-San Francisco Railway Company

Dispute: Claim of Employee:

1. That under the current applicable Agreement laborer D. A. Prather, was unjustly discharged from the service on August 1, 1977.
2. That accordingly, the St. Louis-San Francisco Railway Company compensate laborer D. A. Prather, at the pro rata rate of pay for each work day beginning August 1, 1977, until he is reinstated to service and in addition receive all benefits accruing to any other employee in active service, including vacation rights and seniority unimpaired. Claim is also made for laborer D. A. Prather, for his 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, and in addition to the money claimed herein, the Carrier shall pay Mr. Prather an additional sum of 6% per annum compounded annually on the anniversary date of said claim.

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.

After investigative hearing, Claimant was discharged on August 1, 1977, for violation of Rules B and P which read in part as follows:

Rule B: "Employes who are negligent or indifferent to duty, . . . will not be retained in the service."

Rule P: "Employee must not absent themselves from their duties, without proper authority."

The record shows that, during his brief service with the Carrier, the Claimant established a woefully poor attendance record. On two occasions he was specifically counseled by Carrier representatives as to his poor performance. Following the second discussion, Claimant's record showed no improvement at all. In a 13-month period, he was absent on 90 days and worked less than a full shift on 37 other days.


The Organization urges that the disciplinary action, if warranted at all, is too severe. The record again shows that the Carrier attempted remedial action with the Claimant during the course of his first year of employment, but to no avail. Under the circumstances, there is no basis for the Board to substitute its judgment in this matter.

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 - Administrative Assistant

Dated at Chicago, Illinois, this 17th day of October, 1978.