

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 7726
Docket No. 7590
2-C&O-FO-'78

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

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

Dispute: Claim of Employees:

1. That under the current agreement Rodney L. Stanley, Laborer, was unjustly dismissed from the Carrier effective October 29, 1976.
2. That accordingly the Carrier be ordered to reinstate this employe with full seniority rights and be made whole for any other benefits he lost due to this discipline including but not limited to wages, vacation rights, health and welfare benefits including Railroad Retirement which he would have received during the time he has been held out of 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.

Claimant was absent twenty four (24) days after his recall from furlough on September 7, 1976. During this time, September 8, 1976 through October 12, 1976, he failed to report the status of his condition to his foreman on four (4) occasions and frequently called in late that he would not be at work.

Moreover, he did not adduce mitigative medical evidence explaining the nature of his purported illness or appear at the scheduled investigative proceeding to determine the bona fides of the charges.

It is a clear and glaring record of unpermitted absenteeism. Rules 32 and 33 which are unambiguous and quoted in pertinent part are directly applicable to the fact specifics herein:

RULE 32 LEAVE OF ABSENCE

"(a) Employees will not be permitted to lay off from work without first securing permission. The arbitrary refusal of a reasonable amount of leave to employees when they can be spared, or failure to handle promptly cases of sickness or business matters of serious importance to the employees is an improper practice and may be handled as unjust treatment under these rules and regulations."

RULE 33 UNAVOIDABLE ABSENCE FROM WORK

"In case an employee is unavoidably kept from work, he will not be discriminated against. An employee detained from work on account of illness, or for any other good cause, shall notify his foreman promptly."

We find nothing in the record that would warrant penalty reduction. Claimant was offered his opportunity to refute or minimize the gravity of the charges and he refused it. We will deny the claim.


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 1st day of November, 1978.