

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 Laborer Barry V. Shafer was unjustly dismissed from the Carrier effective January 14, 1977.
2. That accordingly the Carrier be ordered to reinstate this employee with seniority rights unimpaired, made whole for all health and welfare and insurance benefits including Railroad Retirement and unemployment insurance, vacation rights unimpaired, made whole for all lost wages including overtime he could have earned and made whole for any other benefits he would have earned during the time he was held out of service from January 14, 1977.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 charged with insubordination and disobeying his supervisor's instructions when he left his job without permission on November 20, 1976.

An investigative hearing was held on December 3, 1976 at which time he was found guilty on the specification and dismissed from service on January 14, 1977.

Claimant contends that he was not given adequate justification for this termination and it was therefore arbitrary, unreasonable and an abuse of managerial discretion.

Our review of the investigative transcript does not support these assertions. We find nothing in the record that shows that this hearing was inconsistent with appropriate due process standards.

Claimant was found guilty of a very serious offense that cannot be tolerated in this critical industry. He left his job at 5:00 A.M. despite his supervisor's explicit refusal to grant him permission to leave at this time. He was obligated to remain at his job until the end of his shift which was 8:00 A.M. That he chose to disregard his supervisor's decision, in the absence of extenuating circumstances, was solely at his peril. It was a volitional choice that was just unacceptable.

We will not detail the many Second Division precedents dealing with like infractions, except to note the relevance of Second Division Award 4782, where we held in pertinent part, "Disobedience consists in taking the law into one's own hands and is insubordination which is proper basis for dismissal."

Claimant's behavior, in this instance, certainly falls within this definitional holding. It cannot be construed as innocuous deportment. If Carrier permitted its employees to disregard the work hours schedule, it would impede rail operations and adversely affect the public interest.

Moreover, when we consider his conduct against his prior disciplinary history we are compelled, of necessity, to deny the claim.

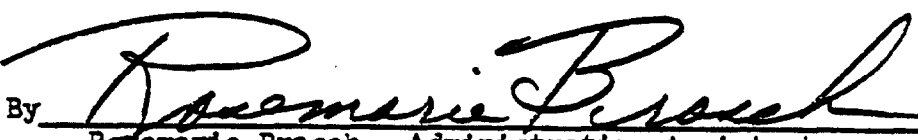
A W A R D

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 14th day of February, 1979.