Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD SECOND DIVISION

Award No. 7898
Docket No. 7780
2-C&O-CM-'79

The Second Division consisted of the regular members and in addition Referee Abraham Weiss when award was rendered.

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

Dispute: Claim of Employes:

1. Claim: That Carman-Tentative, Edward E. Banks was excessively disciplined when dismissed from service as result of investigation held in the General Car Foreman's office at Walbridge, Ohio at 9:00 a.m. on Wednesday, October 13, 1976, in violation of Rule 37 of the Shop Crafts Agreement.

2. Accordingly, Banks is entitled to be restored to service with seniority rights unimpaired, reimbursed for all wages lost, coverage under health and welfare and life insurance agreements and all other benefits accruing to employes in service, commencing November 10, 1976 until such time settlement is reached.

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 dismissed from service, after an investigation, on charges of failure to protect his assignment, excessive absenteeism, excessive tardiness, and falsifying a request to be absent with permission.

During the 43 consecutive days immediately preceding filing of charges, Claimant was absent from his assigned shift on 17 days and worked less than a full 8-hour day on 10 days. During this same 43-day period, Claimant reported late for work on 6 days and on 5 days, left work before the end of his shift. On several days, he either failed to make report concerning his absence prior to the starting time of his shift or made no report at all.

A careful review of the transcript of the investigation discloses no evidence submitted by Claimant that his absences and tardiness were due to being "detained from work on account of sickness, or for any other good cause" as provided by Rule 22 of the Agreement. At the hearing, Claimant stated he could not remember the nature of the illnesses for which he was absent; could not remember the name or address of the doctor with whom he had an appointment; offered as an explanation for his tardiness in reporting for work or in returning on time from his lunch period the statement: "I overslept;" and refused to state the nature of the "personal business" for which he marked off.

The record also discloses instances of prior discipline for, among other charges, excessive absenteeism and being absent without permission, for which Claimant had been found guilty.

Finally, between the date of the hearing and the date of his dismissal-- a period of 21 workdays-- Claimant was absent 7 days and late on 6 other days.

Carrier has shown leniency in the past for proven transgressions, by giving Claimant an opportunity to mend his ways. A review of the record, cited in some detail supra, leads us to conclude that Claimant has not responded to the opportunity to improve his attendance record. Carrier's action in dismissing Claimant from its service is supported by the record and we will not modify 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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 19th day of April, 1979.