

The Second Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

Parties to Dispute: (System Federation No. 76, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. Coach Cleaner Albert Reed was unjustly assessed fifteen (15) days deferred suspension on May 24, 1977.
2. Coach Cleaner Albert Reed was erroneously charged with failure to protect his assignment on April 19, 1977.
3. That the Chicago and North Western Transportation Company be ordered to rescind the fifteen (15) days deferred suspension and remove same from Coach Cleaner Albert Reed's record, in accordance with Rule 35.

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 failing to notify Carrier of his absence for April 19, 1977. Following an investigation Claimant was assessed a fifteen day deferred suspension.

There is no question but that Claimant failed to protect his assignment on April 19th. He claimed, however, that he telephoned that morning and talked to Clerk Hendrixon, thus protecting his status, since his reason for absence was a physical disability. Clerk Hendrixon testified that he had no recollection of any conversation with Claimant on the day in question. Further, the call-in record book has no indication that Claimant called in on April 19th.

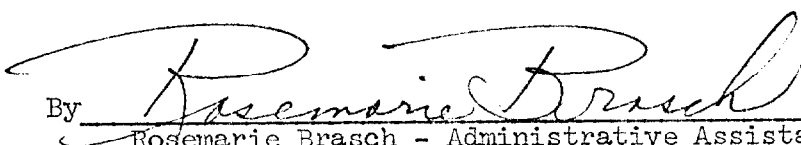
The crux of this dispute is a credibility finding with respect to the alleged phone call by Claimant on the date in question. It is evident that the investigating officer did not credit Claimant's testimony but rather believed Clerk Hendrixon and the lack of record in the call-in book. It is well established that documentation is not required for the principle that Boards such as this cannot make credibility findings; that task is solely within the prerogative of the investigating officer. Under the circumstances it is evident that the record supports Carrier's conclusion that Claimant was guilty as charged. Further the fifteen days deferred suspension, as the penalty, cannot be deemed arbitrary or unreasonable. The claim must be denied.

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 16th day of May, 1979.