

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis 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 Phillip Bradshaw was unjustly assessed thirty (30) days suspension on November 23, 1977.
2. Coach Cleaner Phillip Bradshaw was erroneously charged with failure to protect his assignment on November 1, 1977.
3. That the Chicago and North Western Transportation Company be ordered to compensate Coach Cleaner Phillip Bradshaw for all time lost at eight (8) hours per day, five (5) days per week, dating from December 5, 1977 until January 19, 1978, at 6% annual interest as per 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 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, a Passenger Coach Cleaner at Carrier's California Ave. Passenger Car Facility in Chicago, Illinois, reported for work on November 1, 1977, at 8:55 a.m. His normal starting time was 8:00 a.m. Carrier alleges that he reported late without calling in to notify the facility of his delay. For this infraction, as well as Claimant's past record of attendance and tardiness, Carrier, after an investigatory hearing, assessed a 30-day suspension without pay.

The Organization contends that the investigatory hearing was not fair and impartial, that Claimant's past record was used by the Hearing Officer to help decide his guilt in the incident with which he was charged, and that Carrier did not carry its burden of proof. It failed to prove that the Claimant's wife did not call on his behalf and inform the facility that he would be late.

A review of the record before us persuades this Board that Carrier's investigation afforded Claimant a full and fair hearing. The Hearing Officer's questioning concerning Claimant's past record was not the basis for his conviction. The facts of the record clearly reveal that Claimant's wife did not call on his behalf, nor did Claimant call on his own behalf. The testimony of Velasquez and Lynch, two clerks on duty in the office on the day in question, both tell essentially the same story. Their statements are straightforward, logical, and believable. They both said that no calls were received concerning Claimant's plan to be late for work. Jefferson's testimony indicated that Claimant told him that he did not call in because he did not think that he would be late. Jefferson's testimony on this point and his conversation with both clerks about whether anyone had called in reporting that Claimant would be late on the morning in question must be weighed against Claimant's statement that his wife called in on his behalf. Claimant's position is not the persuasive one here.

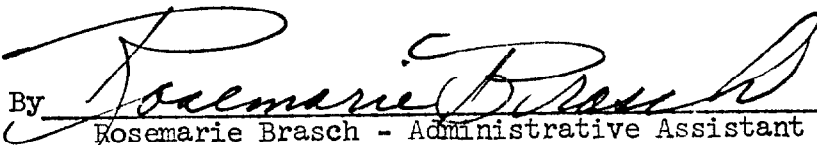
This Board need not recite precedential cases to support Carrier's action in this case. It is obvious from the record that Claimant does have a poor time and attendance record, and that Carrier has imposed progressive discipline in an effort to change Claimant's behavior. This Board can only hope that Claimant will learn by this most recent suspension and mend his ways.

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 29th day of August, 1979.