

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

Parties to Dispute: (System Federation No. 1, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Consolidated Rail Corporation

Dispute: Claim of Employee:

- (a) That the Carrier violated the controlling agreement when on August 26, 1977, it assessed five (5) days actual discipline to Carman Jeffrey P. Williams, as a result of a hearing and investigation conducted on July 26, 1977.
- (b) That accordingly, the Carrier be ordered to reimburse the Claimant for the equivalent amount of compensation he would have earned during the five days of his suspension, as well as any other compensation the Claimant would have earned during the five-day period he served as discipline days lost to be forwarded towards his vacation, remove all record of discipline from his service record, and Claimant's service record be restored unimpaired.

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, Jeffrey P. Williams, was notified by letter dated July 19, 1977, to attend a hearing and investigation on July 26 to answer charges in connection with the following:

"Your violation of Rule 22 on July 12, 1977; Your violation of Rule 22 on July 19, 1977; Your failure to improve your attendance record as outlined in 'Warning Notice' dated Mar. 21, 1977, and further discussed as to your responsibility of all compliances in the presence of Your Local Chairman on May 24, 1977, to determine your responsibility, if any, in the matter."

Rule 22 reads in pertinent part:

"In case an employe is unavoidably kept from work he will not be discriminated against. An employe detained from work on account of sickness or for any other good causes shall notify his foreman as early as possible."

The record reveals that on July 12, claimant was four hours late for work with no notice to the supervisor and on July 19 he was three hours and fifty minutes late without contacting the carrier. Mr. Williams admits to the foregoing tardiness but claims that he had to take his girlfriend to the hospital which constitutes a medical emergency and he should not be penalized. It should be noted that he did contact his mother on July 19 to assist his girl while he went to work. Apparently he was not so concerned about notification to the carrier.

The record reveals that on March 21, 1977, claimant was sent a letter listing his poor attendance record including numerous late arrivals at work. He was warned that improvement was expected. Further, on May 24, he was notified that in lieu of a scheduled investigation a discussion among his local chairman, the carrier, and the claimant regarding his poor attendance record had resulted in "a continuation of the 'Warning Notice' issued March 21, for a period of twelve months".

In view of the foregoing claimant should have been acutely aware of his responsibility to notify the carrier in accordance with the rule. There are telephones at a hospital and Mr. Williams cannot claim that it was even difficult to notify the carrier.

The entire record shows a disregard for attendance rules by the claimant which a carrier simply cannot countenance if it is to maintain an efficient work force in the furtherance of its obligation to the public. Some form of disciplinary action was warranted. The five day suspension is within reasonable bounds for corrective action.


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 April, 1980.