

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

Parties to Dispute: (System Federation No. 4, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Richmond, Fredericksburg and Potomac Railroad Company

Dispute: Claim of Employee:

1. That Carman, Timothy O. Minor was unjustly dismissed from service as result of investigation held in the office of the Master Mechanic at 10:45 a.m., on Friday, September 23, 1977 in violation of Rule 34 of the Shop Crafts Agreement.
2. Accordingly, Carman, Timothy O. Minor is entitled to be restored to service, compensated for all lost wages and loss of all benefits and insurances accruing to employees in service, to include 6% annual interest rate, with seniority rights unimpaired, said claim to continue until satisfactory 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 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.

The claimant, T. O. Minor, was notified by letter dated September 13, 1977, to appear for an investigation to be conducted at the office of the carrier on September 20, 1977. He was charged with excessive absenteeism from his position as Carman at the Potomac Yard. The letter further informed him that his entire work record would be reviewed and considered in assessing discipline. At the request of the organization hearing was postponed to September 23, 1977. Following an appropriately conducted investigation the penalty herein complained of was assessed.

There is no dispute with respect to the facts in this case. The record reveals a pattern of absenteeism which could not be condoned by a carrier. It includes one discharge for absenteeism with a return to work on a leniency basis. On the other hand, the Board is impressed with the candid and straightforward manner with which the claimant attempted to correct his deficiencies. Without burdening the record, his personal and family problems were real and he

did make serious effort to solve them. The carrier apparently was aware of this effort as is evidenced by their actions previous to this final judgment.

It is clear that some form of disciplinary action is warranted. However, based on the entire record, this Board is not convinced that the ultimate industrial penalty is merited. Mr. Minor has suffered considerable economic loss during his absence from work and it is hoped that such loss will be remedial in nature. We will return him to work without any pay for time lost. In so doing, grievant is admonished that this is in the nature of a last chance. He must demonstrate that he can correct his history of absenteeism or suffer the consequences.

A W A R D

Claimant will be returned to work without pay for time lost but with seniority unimpaired.

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.