

The Second Division consisted of the regular members and in addition Referee Wesley A. Wildman when award was rendered.

Parties to Dispute: ( System Federation No. 42, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Carmen)  
( Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That the Seaboard Coast Line Railroad Company did improperly dismiss Coach Cleaner W. C. Wilson, Hialeah, Florida, from the service of the Carrier on April 21, 1977.
2. That accordingly, the Seaboard Coast Line Railroad Company be ordered to restore Coach Cleaner W. C. Wilson to service with seniority and other rights unimpaired and paid for all time lost, including payment for health and welfare benefits and other benefits that are a condition of employment.

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.

The Carrier charges in this case that on March 8, 1977, Coach Cleaner W. C. Wilson left work in the middle of his shift without permission and without notifying any of his supervisors, and that this act constituted a violation of Rules 4 and 26 of the Rules and Regulations of the Mechanical Department which forbid the leaving of work without permission. As a result of this alleged transgression, Claimant, a three (3) year employee, was dismissed from service by the Carrier.

On March 17, 1977, an investigative hearing on the incident was conducted. Claimant stated that while on duty and engaged in car washing, he got soap in his eyes. He claimed he left his assignment to seek aid from the foreman but found the office closed and no one present. He testified further that he told another employee he was going home to get medical help and that he requested said employee to inform the foreman accordingly. Finally, Claimant stated at the hearing that, upon returning to work, he explained the situation to his supervisor and produced a medical receipt for \$20.00 verifying treatment of his eyes.

The supervisor involved stated that he was never informed by another employee of Claimant's reasons for leaving work and that, upon his return to work, Claimant never discussed with him (the supervisor) his reasons for leaving, nor did Claimant ever produce a medical receipt for treatment of his eyes. The supervisor stated that he did not know, at any time, anything about Claimant having had soap in his eyes on the shift in question.

The medical receipt mentioned by Claimant in his testimony was not produced as evidence at the hearing nor did the employee who Claimant was alleged to have informed of his plight appear to testify.

Claimant now appeals partially on the ground that his hearing was not fair and impartial because his witness was not present. It is well established precedent of this Board that initiative for preparing one's own case and producing one's own witnesses rests with a Claimant and his representative. Of course, Carrier assistance may be asked in the production of witnesses, but there is no evidence on this record that such assistance was ever requested. Thus, Claimant can not now assert successfully that the failure of his witness to appear has prejudiced his defense in this case.

It is the judgment of this Board, following a close analysis of the entire record, that substantial evidence clearly exists for the finding by Carrier that Claimant was guilty of leaving his shift without notification or justification in clear violation of the applicable rules.

Finally, as to quantum of discipline, it is the opinion of the Board that there is no basis for holding that the penalty of dismissal in this case is arbitrary, capricious, or excessive.

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 11th day of June, 1980.