

The Second Division consisted of the regular members and in addition Referee Higdon C. Roberts, Jr. when award was rendered.

Parties to Dispute: { International Association of Machinists and
Aerospace Workers
{ Southern Railway Company

Dispute: Claim of Employees:

1. That the Southern Railway Company was arbitrary and capricious when they unjustly dismissed from service Machinist J. K. Crew, Atlanta, Georgia, on July 4, 1978.
2. That accordingly, the Southern Railway Company be ordered to reinstate Machinist J. K. Crew, with pay for all lost time wages, with all rights under the Agreement 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 employe or employees 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 were given due notice of hearing thereon.

The claimant (J. K. Crew) was dismissed from service for excessive absence and tardiness during the period of 20 work days prior to June 16, 1978. The investigation and supporting carrier documents established that Mr. Crew was absent or tardy nearly 40% of the time. This record was not challenged by Mr. Crew. He challenged only the carrier's statement that for three of his absences, he had not reported off. He claimed his wife had reported him off, but we accept the carrier's evidence to the contrary.

The organization claims that Mr. Crew had legitimate reasons for his absences and tardiness, namely: personal sickness, a sick father, and a niece with personal and legal problems. The sick father doesn't wash because the father was in another city and claimant admits he did not go to visit him. The claimant's personal sickness was unsubstantiated. The problems with the niece no doubt were real, but did not necessarily excuse Mr. Crew from protecting his assignment. He was, therefore, guilty of the charge.

Numerous awards of this Board have sustained the introduction of an employee's past performance record in assessment of proper discipline. In this case, the claimant had been warned about his excessive absences and tardiness many times. He had sustained four previous suspensions for similar charges. This constitutes progressive discipline and sufficient warning to the claimant that severe penalty would be a possibility if he continued with his absence and tardiness. We do not find the penalty in this case unreasonable.

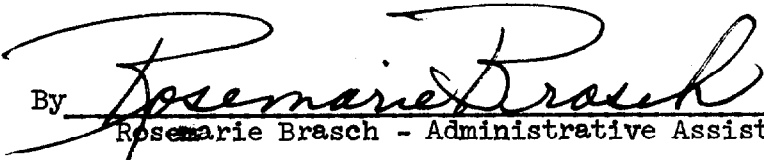
A W A R D

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 23rd day of July, 1980.