

The Second Division consisted of the regular members and in addition Referee David H. Brown when award was rendered.

Parties to Dispute: { International Association of Machinists and
Aerospace Workers
{
{ Missouri Pacific Railroad Company

Dispute: Claim of Employes:

1. That the Missouri Pacific Railroad Company violated the controlling Agreement, particularly Rule 32 and Decision No. SC-105, when they arbitrarily suspended Machinist Apprentice D. F. Ehemann for allegedly being one (1) lesson behind in his technical training program.
2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Machinist Apprentice D. F. Ehemann in the amount of seven (7) hours and thirty (30) minutes' pay at the pro rata rate of pay for this loss of pay on October 6, 1976.

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.

On October 6, 1976 Claimant was employed as a machinist apprentice at North Little Rock. He reported for work at 7:00 A.M., as scheduled. As of that date Claimant was delinquent three examination papers; therefore, at 7:30 A.M. he was advised that he could not continue work until he completed at least one of the delinquent lessons. He returned the next morning with one lesson and was permitted to resume work. He lost seven and one half hours on the date he was removed from service and filed this claim based upon Rule 32 and Decision No. SC-105.

Rule 32 reads in pertinent part:

"An employe covered by this agreement who has been in service more than 30 days, or whose application has been formally approved, shall not be disciplined or dismissed without first being given a fair and impartial investigation by an officer of the railroad."

The relevant part of Decision SC-105 reads as follows:

"4.(a) An apprentice who fails to maintain the study schedule requirements of two new examinations each month becomes delinquent in any month in which he is one or two examinations behind in schedule ...

(c) An apprentice who accumulates three (three separate months) uncleared delinquents (delinquent in submission of his examination papers) is subject to removal from service following investigation to be held as provided for in the grievance and discipline rules Nos. 31 and 32 of the wage schedule agreement effective July 1, 1936.

5. An apprentice who removes himself from the service for cause mentioned in Section 4-(c), will, after proper investigation is held, be given one more chance under the following conditions:

(a) Within 30 days after removal from service the apprentice must personally bring to the officer in charge of the shop point where such apprentice was working a sufficient number of new examinations to put himself back on schedule, and, in addition, reworked examinations on all lessons on which he has previously failed to attain a passing grade.

(b) After complying with the requirements of the preceding paragraph the apprentice will then be reinstated. ***"

It is the position of the Organization that Carrier disciplined Claimant when it refused to allow him to continue work and that such discipline violated Decision SC-105 because no investigation was held. Carrier maintains that Claimant was not disciplined. We support Carrier's position.

To support the Organization's position would be to require Carrier, in every instance of delinquency such as that attributable to Claimant, to engage in disciplinary procedures. This would in each case necessitate a formal investigation, and in each such case the employee would certainly lose more than seven and one half hours of work. In the language of the Agreement, Claimant removed himself from the service.

There are numerous decisions holding that a carrier may hold an employee out of service pending compliance with a regulation the reasonableness of which has not been challenged. (See, for example, Third Division Award 21647). We hold that Carrier had such right in the instant case and that the procedure outlined under Decision SC-105 is not exclusive.

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 5th day of November, 1980.