

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute: { International Brotherhood of Firemen & Oilers
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{
{ Burlington Northern Inc.

Dispute: Claim of Employees:

1. Under the current controlling Agreement, Mr. L. C. Wiggins, laborer, Denver, Colorado, was unfairly dealt with when suspended and dismissed from service effective December 21, 1978, of the Burlington Northern, Inc.
2. That, accordingly, the Burlington Northern, Inc. be ordered to reinstate Mr. Wiggins to service with seniority rights, vacation rights and all other benefits that are a condition of employment, unimpaired, with compensation for all time lost plus 6% annual interest; reimbursement of all losses account loss of coverage under Health and Welfare and Life Insurance Agreements during the time held out of service; and the mark removed from his record.

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.

Claimant, a roundhouse laborer, was dismissed from service after a hearing held on December 4, 1978. By proper notice dated November 28, 1978, claimant was charged with continued absence without proper authority for the period from November 7, 1978 to November 28, 1978. Claimant failed to appear at the December 4, 1978 investigation.

The organization urges us to reinstate the claimant with full back pay and all benefits unimpaired because the claimant was allegedly absent with a valid medical excuse. The carrier, asserting that it imposed discipline in a reasonable fashion, argues that the record presents substantial evidence showing the claimant committed a gross violation of carrier Rule 605.

Rule 665 states:

"Employees must report for duty at the designated time and place. They must be alert, attentive and devote themselves exclusively to the Company's service while on duty. They must not absent themselves from duty, exchange duties with or substitute others in their place without proper authority."
(Emphasis Added)

The evidence clearly demonstrates that the claimant was absent during the three week period from November 7, 1978 to November 28, 1978 and that he failed to report his absences to the designated foreman. The only evidence proffered at the investigation concerning a possible medical excuse indicated not that the claimant was unable to work but rather that the claimant had actually been given a medical release to return to work as of November 7, 1978. The record is incomplete in this regard solely due to the claimant's inexplicable and unjustifiable failure to appear at his own investigation. The carrier had previously warned the claimant that his continued absence without proper permission could result in the imposition of discipline including discharge. When an employee is expressly warned to improve his attendance record, he must do so or face the consequences. Second Division Award No. 7769 (Weiss).

Looking at the record as whole, claimant has shown that he is an undependable employe who has acted in total disregard of the carrier's need to maintain normal railroad operations. Excessive failure to report for duty forces the carrier to take extraordinary measures to alleviate the disruption caused by the absences. Second Division Award No. 7603 (Weiss). Even if the claimant had a valid medical excuse, he was still under an obligation to timely report his problem to the carrier. Second Division Award No. 8115 (Marx). Under the circumstances, a three week absence without tendering a proper medical excuse is a serious offense. Thus, we will not disturb the carrier's judgment that dismissal was warranted. There are no mitigating considerations to support a reduction in the penalty.


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 Brasen - Administrative Assistant

Dated at Chicago, Illinois, this 7th day of January, 1981.