

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

Parties to Dispute: { Brotherhood Railway Carmen of the United States  
and Canada  
{ Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. Freight Car Inspector Michael Vaughn was erroneously charged with being absent from duty without proper authority on July 22, 28 and August 13, 1978.
2. Freight Car Inspector Michael Vaughn was unjustly assessed fifteen (15) days actual suspension.
3. That the Chicago and North Western Transportation Company be ordered to compensate Freight Car Inspector Michael Vaughn for all time lost at eight (8) hours per day for fifteen (15) days plus all benefits to which he is entitled, which are a condition of employment, in accordance with Rule 35.

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.

Claimant, a freight car inspector, was charged with being absent without proper authority on July 22, 28 and August 13, 1978 in violation of General Rule 14 and Rule 20 of the applicable agreement. After an investigation held on August 25, 1978, the carrier suspended the claimant for fifteen working days.

The organization initially objects to the form of the notice to claimant regarding the charges. On the merits, according to the employees, the carrier failed to sustain its burden of proof. Also, the claimant attempted to call in but the carrier's policy of requiring absent employees to obtain prior permission from the general foreman prevents employees from reasonably procuring such permission. In reply, the carrier, contends that the record discloses not only that claimant was absent on the days in question but also that he failed to properly secure permission from the general foreman.

The original notice to claimant dated August 15, 1978 charged claimant with absences for August 22, 28 and August 13, 1978 and set the hearing for August 21, 1978. Subsequently, at the express request of the organization, the hearing was postponed to August 25, 1978. In the revised notice sent to the claimant, the statement of charges indicated claimant was absent on July 22, 28, and August 13, 1978. The organization argues that the change in the alleged absence dates deprived the claimant fair notice. We disagree. The claimant was adequately apprised of the charges brought against him in the original notice and, at the investigation, he acknowledged that notice was sufficient. The revised notice was identical to the first notice except for the reference to August 22 and 28 instead of July 22 and 28 and that minor discrepancy was obviously due to clerical inadvertence.

Claimant did not report to work on the three dates in question. On August 13, he failed to even call the carrier. On the other two days, he did call but he did not speak directly with the general foreman. While the record is not entirely clear, it appears that on one day he spoke to an acting foreman and on the other day he left a message with a fellow worker. The claimant asserts that the calls constitute sufficient notification under Rule 20. The carrier concedes that claimant called but says the officer designated by the carrier to grant permission to be absent never gave claimant permission. Rule 20 requires the claimant to procure proper authority for his absence to be deemed excused. Second Division Award No. 8196 (Kasher). The carrier may, within reasonable limits, vest a particular officer with the authority to excuse absences. Second Division Award No. 7754 (Scearce). This policy, when not abused, promotes uniformity in the standards for granting or denying permission to be absent. In this case, the claimant knew that he had to receive permission from the general foreman for all absences. We cannot say that the designation of the general foreman is in violation of Rule 20. Therefore, the carrier has proffered substantial evidence that the claimant failed to procure proper authority for his absences on July 22 and 28 and that he did not even call the carrier on August 13.

Lastly, given claimant's prior work record, we see no reason to adjust the assessed discipline. In the recent past, the claimant has had a problem with absenteeism. A fifteen day suspension is commensurate with claimant's offense.

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 7th day of January, 1981.