

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers  
{ Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That the action of the Consolidated Rail Corporation (Conrail) violated the current agreement and was arbitrary, capricious, discriminatory and unjustifiable when they suspended Electrician William Barrino from service for fifteen (15) days on December 28, 1978.
2. That the Consolidated Rail Corporation (Conrail) be ordered to compensate Electrician Barrino for fifteen (15) days time in the amount in wages due to the suspension from service and his record cleared.

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 W. Barrino, a third trick electrician at carrier's Conway Diesel Terminal, was charged with failure to protect his assignment during eight days in October, seven days in November, and three days in December 1978. A hearing into the matter was held on December 21, 1978. As a result of that hearing, claimant was assessed a 15-day suspension.

The organization contends that claimant was not afforded a fair hearing and that carrier did not specifically list the days claimant was alleged to be absent. This failure to list the days in question is required. By failing to do so, carrier has not carried its burden of proof. The organization also argues that claimant, who has 33 years of service, is a victim of arthritis. That is why he was out of work on the days in question.

The record of this case reveals that the arguments that claimant was not afforded a fair hearing and that carrier failed to list the specific days of absence were not made on the property and therefore cannot now be considered by this Board. It also reveals that claimant was absent on the number of days stated in the charges

and that, on some of these days, carrier was not aware that claimant would be off. Carrier is not required to tolerate such a situation and can, regardless of an employee's length of service, impose discipline. In light of the fact that claimant has been disciplined in the past for absenteeism, the penalty imposed in this case (a 15-day suspension) is appropriate.

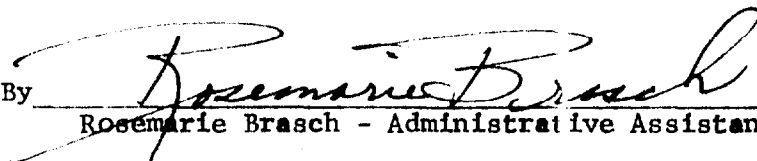
A W A R D

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 28th day of October, 1981.