

The Second Division consisted of the regular members and in addition Referee Francis X. Quinn when award was rendered.

Parties to Dispute: ( International Brotherhood of Firemen & Oilers  
(  
( Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That Laborer, E. L. Johnson, was unjustly dismissed from the service of the Missouri Pacific Railroad Company on May 11, 1978, on alleged charge of failure to properly protect his assignment Saturday, April 22, 1978 and Saturday, April 29, 1978, violation of Paragraph 5 of Condition of Employment.
2. That accordingly, the Missouri Pacific Railroad Company compensate Laborer, E. L. Johnson, for all time lost, and in addition to receive all benefits accruing to any other employee in active service, including vacation rights and seniority unimpaired. Claim is also made for Laborer, E. L. Johnson, for his actual loss of payment of insurance on his dependents and hospital benefits for himself, and that he be made whole for pension benefits including Railroad Retirement and Unemployment Insurance, and in addition to the money claimed herein, the Carrier shall pay Mr. Johnson an additional sum of 6% per annum compounded annually on the anniversary date of said claim.

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.

On April 22 and April 29, 1978, claimant was assigned to work with a machinist who serviced locomotives working in Carrier's hump yard at North Little Rock. His start time on both dates was 6:00 A.M.

Claimant had been employed by Carrier for approximately 18 months.

Claimant was absent from his assignment on April 22 and 29, 1978. On April 22, he did not contact his foreman or general foreman to secure permission to be absent and gave no reason why he could not have done so. On April 29, Claimant called in to secure permission to be off at 7:20 A.M., one hour and twenty minutes after the start time of his assignment. He gave no reason for the delay in calling. He was granted permission to be off to attend to his daughter whom he alleged that he had

taken to the emergency room of St. Vincent Hospital. A check of St. Vincent Hospital Emergency Room made immediately after Claimant's phone call disclosed no evidence that Claimant was at or had ever been at St. Vincent Hospital Emergency Room. Also, a check of all other area hospitals was made. Again, there was no record of Claimant's having had any transaction at any area hospital. Claimant offered no proof that he or his daughter had been present at St. Vincent Hospital or any other area hospital on April 29, 1978.

The record indicates that Claimant was absent from his assignment without the permission of his supervisors on April 22 and 29, 1978. This finding, coupled with Claimant's short term of service, poor attendance record and numerous warnings about same, and his prior suspension for sleeping while on duty, led to Claimant's dismissal.

The guiding principles governing review of disciplinary proceedings have been stated in many awards; e.g., Award 6196, of the Second Division, National Railroad Adjustment Board.

Claimant's poor attendance and work habits had been the subject of three conferences and 16 letters from supervision.

Claimant's record as a relatively new employee evidenced little regard for his responsibilities. His absence without authority warranted his dismissal. His dismissal was not arbitrary or capricious.

Based on the record, we must conclude this claim is without merit.

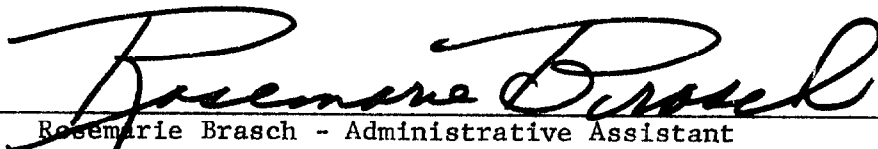
A W A R D

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 27th day of January, 1982.