

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers  
{ National Railroad Passenger Corporation

Dispute: Claim of Employee:

1. That under the terms of the controlling agreement Electrician R. Dawson was discriminated against by the arbitrary, and capricious action of the National Railroad Passenger Corporation (Amtrak) when he was dismissed from service on June 22, 1979.
2. That accordingly the National Railroad Passenger Corporation (Amtrak), be ordered to reinstate Electrician R. Dawson to his former position with seniority unimpaired and compensation for all time lost.

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.

The record shows that claimant entered Carrier's service on January 28, 1976, and had service with the former Penn Central Transportation Company from February 2, 1974. At the time of the occurrence giving rise to the claim herein, he was an electrician at Carrier's Philadelphia Coach Yard.

The Carrier contends that claimant reported one hour late on April 27, 1979, did not report on April 29, allegedly due to illness. On May 4, 6 and 7, 1979, claimant was tardy in reporting for work in the amounts of 1 hour, 1-1/2 hours and 1/2 hour on the respective dates. He did not report for duty on May 15, allegedly due to personal business. He was also absent from work on May 18 for unexplained reasons, and reported 1 hour late on May 19, 1979.

On May 22, 1979, claimant was charged with excessive absenteeism, based on his absences and tardiness on the dates shown. The investigation was originally scheduled for May 31, 1979, but was postponed and held on June 14, 1979. A copy of the transcript of the investigation has been made a part of the record. The date of April 23, 1979, was included in the original charge, but during the course of the investigation that date was dropped due to the timeliness of receipt of the notice by claimant. Claimant was present throughout the investigation and was represented. On June 22, 1979, claimant was notified of his dismissal from service.

We find that the investigation was conducted in a fair and impartial manner. The introduction of claimant's prior record in the investigation did not violate any rule of the agreement and was in no way prejudicial to the claimant. Such procedure has been upheld in numerous awards.

In the investigation claimant contended that he called in to notify the Company when he expected to be late or tardy. However, there is no evidence as to whom he talked to, nor was any request made to have persons present at the investigation that he allegedly talked to.

Rule 28(a) of the applicable Agreement reads:

"UNAUTHORIZED ABSENCE

(a) Employees shall not absent themselves from their assigned position for any cause without first obtaining permission from their supervisor. In cases of sickness, emergencies or when the supervisor cannot be located, they shall notify their supervisor or another person in authority as soon as possible."

On our review of the entire record, we conclude that discipline was warranted. However, permanent dismissal was excessive. The time that claimant has been out of service should constitute sufficient discipline. We will award that claimant be restored to service with seniority unimpaired, but without any compensation for time lost while out of the service. Claimant should understand that the purpose of the Award is to give him one last chance to become a reliable and dependable employee of the Carrier, but that further major infractions on his part will result in the permanent termination of his service. He should understand that his work attendance record will be expected to improve.

A W A R D

Claim sustained to the extent indicated in the Findings.

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 24th day of February, 1982.