

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

Parties to Dispute: ( International Brotherhood of Boilermakers, Iron Ship  
( Builders, Blacksmiths, Forgers and Helpers  
( Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That Boilermaker Thaddeus A. Davis was improperly assigned a five (5) day record suspension.
2. That accordingly, the Consolidated Rail Corporation be ordered to delete any mark placed against Mr. Davis' work 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, Thaddeus A. Davis, a Boilermaker with seniority date of April 10, 1978, was assigned at the Collinwood Diesel Locomotive Shop in Cleveland, Ohio, on March 28, 1979, the date of the subject incident, and was working the first trick with hours of 7:00 A.M. to 3:30 P.M. By letter dated April 9, 1979, Carrier notified Claimant to attend a trial scheduled for May 1, 1979, for the purpose of answer the following charge:

"Being away from assigned work area without permission  
on March 28, 1979 between 11:00 AM and 11:30 AM."

Based on the evidence adduced at the trial Carrier adjudged Claimant guilty as charged and accordingly imposed the discipline of a five (5) day deferred suspension.

The record reflects that on the morning in question the Claimant was assigned to work on diesel unit 9329. At or about 11:00 A.M., Claimant contends he completed his assigned duties at which time he admits departing from the diesel unit to use the telephone. Claimant further admits he did not ask permission from supervision to leave the diesel unit nor to make a phone call. The Organization notes Claimant had previously been working on the second shift and that on the date in question Claimant had been assigned to the first shift

for only two (2) days. The Organization contends that on the second shift it was common practice to allow employees to use the telephone upon completion of their assigned duties without having to secure prior supervisory permission. In so noting this practice, the Organization submits the Claimant was wrongfully disciplined and requests the stated relief as set forth in its claim above.

Carrier argues Claimant failed to fulfill his responsibilities to it when he absented himself without permission from his assigned work area during his tour of duty. In support of its position Carrier notes Claimant's own testimony at the trial of May 1, 1979, wherein Claimant, although denying he was gone for one-half ( $\frac{1}{2}$ ) hour, freely admitted he was absent without permission from 11:15 A.M. to 11:30 A.M. Carrier asserts Claimant had no right whatsoever to leave his assignment for a personal reason without first obtaining permission and points out that if all employees so acted chaos would result in the work place. Carrier takes the position that the subject discipline was fully justified and warranted and that the instant claim is wholly lacking in merit, substance or support.

Based on a close scrutiny of the entire record, the Board finds Carrier's position in the instant case must be upheld. Most critical in our determination is the Claimant's own admission he absented himself from his assigned work area without permission. We find it matters not whether Claimant was gone for the fifteen (15) minutes he admits to or the thirty (30) minutes as so alleged by the Carrier since the basic fact has been clearly established that he was gone for some period of time. Further, we find the Organization's argument regarding the practice allegedly prevailing on the second shift which purportedly allows employees to use the telephone once assigned duties are completed not to be pertinent here, for we cannot support Claimant's dereliction of duties, based on the dereliction of duties of others, if such is indeed occurring on the second shift. We are in full agreement with the concept that a business, including that of a railroad cannot be operated either safely or efficiently unless its employees accept and discharge their responsibilities and perform their duties timely and efficiently. In conjunction with this latter point we believe Carrier has the right to expect each and every employee to work a complete tour of duty. Finally, we find nothing in the record which remotely suggests Claimant was not afforded a fair and impartial hearing by the Carrier or that Carrier abused its managerial discretion by, in any way, prejudicing Claimant's rights. We note that ultimately no actual time was lost by Claimant as a result of the subject discipline, but that in any event, we agree with Carrier's view that the five (5) day deferred suspension was appropriate and fully commensurate with the nature of the offense committed.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By

  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois this 17th day of March, 1982.