

The Second Division consisted of the regular members and in addition Referee Edward M. Hogan when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(Southern Pacific Transportation Company

Dispute: Claim of Employees:

1. That under the current Agreement, Mechanical Department Electrician C. W. Beard was unjustly treated when he was dismissed from service on November 2, 1979, following investigation for alleged violation of portions of Rules 802 and 810 of the General Rules and Regulations of the Southern Pacific Transportation Company (Pacific Lines). Said alleged violation occurring on September 11, 15, 16, 17, 18, 21, October 5, 6, 7, 8, 9, 20, 21, and 22, 1979.
2. That accordingly, the Southern Pacific Transportation Company (Pacific Lines) be ordered to:
 - (a) Restore Electrician C. W. Beard to service with all rights unimpaired including service and seniority, loss of wages, vacation, payment of hospital and medical insurance, group disability insurance, railroad retirement contributions, and loss of wages including interest at the rate of six percent (6%) per annum.

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 was dismissed from service of the Carrier following a formal investigation on the charges that Claimant was in violation of Rule 802 and Rule 810. Rules 802 and 810 state the following:

Rule 802: "Indifference to duty, or to the performance to duty will not be condoned..."

Rule 810: "Employees ... must not absent from their employment without proper authority... Continued failure by employees to protect their employment shall be sufficient cause for dismissal."

The record is replete with more than ample evidence of the Claimant's repeated absenteeism during the three year's of his employment with the Carrier. Furthermore, the record also shows that the Claimant had been warned on numerous occasions prior to his dismissal, subjected to disciplinary proceedings which assessed prior discipline for the same violations, and that the Claimant had generally showed an indifference to his employment with the Carrier.

Furthermore, the Claimant was advised of his hearing through personal service of the hearing notice to the Claimant by the Carrier's trainmaster. It is uncontradicted through testimony at the hearing that the Claimant responded to the trainmaster at the time of the personal service of notice that he was "on a toot".

This Board finds ample evidence throughout the record to uphold the decision of the Carrier. Unexcused absences over such a short period of time clearly indicate a lack of concern on the part of the employee to his employment with the Carrier.

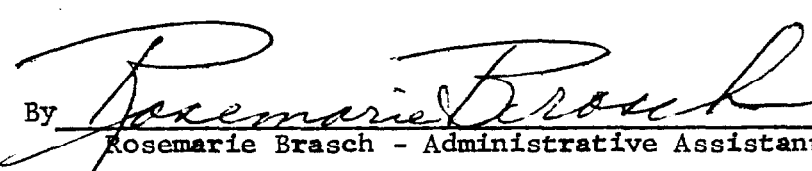
A W A R D

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 28th day of April, 1982.