

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 Firemen and Oilers
Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That Laborer Edward A. Homes was unjustly dismissed from the service of the Missouri Pacific Railroad Company on July 7, 1980.
2. That accordingly, the Missouri Pacific Railroad Company compensate Laborer Edward A. Holmes at his pro rata rate of pay for each work day beginning July 7, 1980, until he is reinstated to service and in addition to that, receive all benefits accruing to any other employee in active service, including vacation rights and seniority unimpaired. Claim is also made for Laborer Edward A. Holmes, for his actual loss of payment of insurance on his dependents and hospital benefits for himself, pension benefits including Railroad and Unemployment Insurance, and in addition to the money claimed herein, the Carrier shall pay Mr. Holmes an additional sum of 12% 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 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.

A formal investigation was held following the charges against the Claimant of failure to protect his assignment, failure to report to work at the appointed time, excessive absenteeism, and falsification of time card for a particular date. Based upon the seriousness of the charges in the instant case as well as a thorough review of the Claimant's past disciplinary record in the four years of his service to the Carrier, the Claimant was dismissed from the service of the Carrier after a finding substantiating the charges in the instant case.

After a review of the record in this case, this Board finds that there is no valid reason to overturn the discipline assessed the Claimant. This Board also finds that the discipline of dismissal to be completely warranted in this case based upon the Claimant's record which is replete with instances of tardiness, early departure, unauthorized absences, repeated counselling about poor attendance

habits, a prior thirty day suspension assessed because of poor attendance, and a prior two year suspension resulting from Claimant's misconduct towards a supervisor.

This Board has ruled in Award No. 6196:

"The precedent is well established that this Board should not substitute its judgment for that of the Carrier in discipline cases where it has produced substantial evidence that the offense charged was committed. While the administration of disciplinary action should not seem haphazard or capricious, it is clear that the imposition of discipline is within managerial discretion."

We find nothing in the record which would enable us to uphold the Claimant's position. We therefore conclude that the discipline assessed in this case commensurate with the offense and will deny the claim.

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.