

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 & Oilers
 { National Railroad Passenger Corporation

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Laborer Ricardo Bradford was unjustly dismissed from the service of the Carrier following investigation held on October 31, 1979.
2. That, accordingly, the Carrier be ordered to make the aforementioned Ricardo Bradford whole by restoring him to Carrier's service, with seniority rights unimpaired, made whole for all vacation rights, holidays, sick leave benefits, and all other benefits that are a condition of employment unimpaired, and compensated for all lost time plus ten (10%) percent interest annually on all lost wages, also reimbursement for all losses sustained account of coverage under health and welfare and life insurance agreements during the time he has been held out of service.

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 was charged with being absent without authority and being late in reporting for his job six times during the period September 15, 1979 through October 15, 1979. On October 22, 1979, Claimant was instructed in writing to report for a formal investigation on the charges of violating Rule "K" and Rule "L" of the Carrier, both of which read as follows:

Rule K:

"Employees must report for duty at the designated time and place, attend to their duties during the hours prescribed and comply with instructions from their supervisor."

Rule L:

"Employees shall not ... be absent from duty ... without proper authority."

Subsequent to the hearing, the Claimant was found guilty of excessive absenteeism, and as a result, was dismissed from the Carrier's service.

It is well held by this Board that absent a clear showing of arbitrary, capricious, or unreasonable action, we will not upset the findings of a hearing officer pursuant to an impartially conducted investigation. Furthermore, we find that the record in this case substantiates the Carrier's position that the Claimant was not a dependable employee during the period in question. We also find that discipline was justified and required in this case. This Board has held in Award No. 7603:

"... discipline is not imposed for purposes of retribution only. Discipline is also imposed to secure efficient operation and to spur employee correction and improvement."

In Third Division Award No. 19537, it was held:

"Discipline generally has three goals: punishment of an employee, correction and training of the employee, and as an example for training purposes for other employees..."

With these firm principles in mind, this Board believes that the Claimant should be reinstated to service with all rights restored, but with no pay for time lost. We trust that the time the Claimant has been out of service will have accomplished all three of the goals mentioned in Third Division Award No. 19537.

Referring to Award No. 7603, we find it useful to cite the admonition of this Board in that case to the present Claimant:

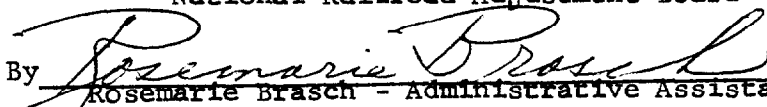
"We are also compelled to counsel Claimant that we consider this to be his final opportunity to learn that the Carrier need not retain in its employ those individuals who are unwilling to show up for work regularly and punctually and work their full shift during their assigned hours of work. Prompt and permanent dismissal will be appropriate if Claimant in the future returns to his errant ways."

A W A R D

Claim sustained as per the Findings; claimant reinstated; no back pay.

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.