

The Second Division consisted of the regular members and in addition Referee Thomas V. Bender when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers  
{ Chicago, Milwaukee, St. Paul & Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company violated the current agreement when Electrician Helper W. R. Apfel was unjustly dismissed from service on May 17, 1979 for alleged failure to protect his assignment.
2. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company be ordered to make Electrician Helper W. R. Apfel whole by reinstating him to service with all seniority and other rights unimpaired and repaying all lost wages and benefits and his record cleared.

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.

The Claimant in this matter was employed as an electrician on August 21, 1978. He worked for the Carrier in Milwaukee, Wisconsin. From August 24, 1978 until February 5, 1979 Claimant was late or took early quits on nine separate occasions and was absent on fourteen days. The Carrier advised the Claimant of his unacceptable attendance record by letter dated February 23, 1979. Despite this warning the Claimant compiled the following record during March and April 1979:

March 2 - '79	Absent - No reason
March 20 - '79	Absent - Sick
April 10 - '79	Absent - No reason
April 20 - '79	Absent - Sick
March 12 - '79	Tardy - No ride
March 26 - '79	Tardy - No ride
April 12 - '79	Tardy - No ride

On May 3, 1979 an investigation was held to determine Claimant's position regarding his record. A review of the investigation transcript shows that Claimant offered

no real explanation for his performance or lack thereof. Following the close of the investigation Claimant was terminated.

The employment relationship is a two way street. The employer provides work and compensation for its employees. The employee accepts the work and compensation and agrees to provide faithful service. The Claimant in the instant case failed to observe his part of the bargain. The Claimant's attendance record is miserable.

A review of the Claimant's record shows that he was not dependable. And, that in the nine months of his employment he was little more than a part time employee. No reasonable person could expect to protect a full time job with part time performance.

It is interesting to note that no one alleged that the Claimant could not do his job. No one alleged that Claimant was in any way deficient in any facet of his job. However, if the Claimant cannot be relied upon to regularly and faithfully report to work his skill level becomes irrelevant. And highly skilled or not, other employees must necessarily be called upon to complete the tasks normally falling to the Claimant. Such a situation is unfair to Claimant's coworkers.

The record clearly substantiates the charges made by the Carrier. The evidence is too clear to allow for any "referee interpretation" and therefore the possibility of any leniency is totally foreclosed, and the record and evidence must be strictly followed. The most distressing part of the record is the Claimant's testimony. He seems very casual and not the least bit upset over the prospect of losing his job.

The Organization raises a procedural issue regarding the fact that a father and son team reviewed this matter up through several steps. The record fails to show that this unusual situation prejudiced the Claimant. The Claimant created his own problems.

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  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 30th day of June, 1982.