

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

Parties to Dispute: { International Association of Machinists and
 { Aerospace Workers
 { Southern Railway Company

Dispute: Claim of Employees:

1. That the Southern Railway Company was arbitrary, capricious and discriminatory, when they unjustly suspended Machinist Nathaniel Oden, Atlanta, Georgia, five (5) days beginning 7:00 AM March 15, 1980 through 3:30 PM March 19, 1980.
2. That accordingly, the Carrier be ordered to reimburse the aforesaid employee for all time lost beginning March 15, 1980 through March 19, 1980 with all rights unimpaired, 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 were given due notice of hearing thereon.

Claimant was assessed a five day suspension after a formal investigation on the charges of failure to protect his job assignment insofar as "within the past twenty (20) work days, you were absent three (3) days for personal business, tardy two (2) days, and got off early two (2) days for a total of thirty-six (36) hours and seventeen (17) minutes". During a preliminary investigation, the Carrier informed Claimant that he would receive a one (1) day suspension, but that this would be held in abeyance pending the results of a formal investigation requested by the Organization.

The Carrier correctly points out in their presentation that employes are obligated to protect their assignment and work their full shifts except in cases of "extraordinary circumstances beyond their control". This Board in Second Division Award 7852 stated:

"Carrier cannot be criticized for attempting to take firm measures to deter excessive absenteeism and tardiness."

While Claimant was not totally blameless, we find that the serious illness of the Claimant's wife constitutes an "extraordinary circumstance". Further, coupled with the fact that the record indicates that the Claimant was in full compliance with the notification and permission requirements of the Agreement, we find that the five (5) day suspension to be overly harsh and hereby modify the Carrier's suspension to one (1) day.

A W A R D

Claim sustained in accordance with the Findings.

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.