

The Second Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

Parties to Dispute: { International Brotherhood of Firemen & Oilers
{ Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Laborer Michael W. Fuller was unjustly dismissed from service of the Carrier following trial held on May 2, 1980.
2. That, accordingly, the Carrier be ordered to make the aforementioned Michael W. Fuller 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 entered the employ of Carrier as a Laborer on July 13, 1978 and, at the inception of this dispute, was working in that position at the Carrier's Avon, Indiana Diesel Terminal.

On April 4, 1980, the Carrier sent Claimant a letter notifying him to report for formal investigation on April 18, 1980, in connection with the following charges:

- "#1. - Failure to protect your job assignment on March 9, 14, 21, 22, 23, 24, 25, 1980.
- #2. - Excessive absenteeism on March 9, 14, 21, 22, 23, 24, 25, 1980.

#3. - Failure to call in when unable to report for duty
March 21, 22, 23, 24, 25, 1980."

The investigation, scheduled for April 18th, had to be postponed until May 2, 1980. As a result of the investigation held on May 2, Claimant was dismissed effective May 6, 1980.

The Organization has taken the position that the claim should be sustained inasmuch as the decision was arbitrary, capricious and unjust and an abuse of managerial discretion. It specifically argues that the offense for which Claimant was to be tried was not exact. This is based on the fact that the hearing officer did not utilize two dates of alleged absence, March 9 and March 14, 1980, at the hearing or in consideration of the matter even though Claimant was initially charged with absenteeism on these dates. According to the Organization, Rule 20(d) states, in pertinent part:

"(effective 2/1/80) - an employee who is accused of an offense, and who is directed to report for a trial in connection therewith, shall be given reasonable advance notice, in writing, of the exact offense for which he is to be tried and the time and place of the trial."

The Organization takes the position that the allegedly incorrect inclusion of March 9 and March 14 makes the offense inexact; therefore, an unfair and impartial trial resulted.

Despite the claims of the Organization, the Board finds that this procedural objection is without merit. There is nothing of substance in the record to support the Organization's contention that Rule 20(d) was violated under these facts and circumstances. On the merits, the Board is satisfied that the issue here is whether the excuse offered by Claimant is good cause for being absent from work. The Claimant is being disciplined for not offering a legitimate excuse for his absences. Numerous prior awards of this Board have set forth the principle that the excuse of "personal business" is not sufficient to justify an absence. (For example, see Second Division Awards 7348, 7754, 7838, and 8323.) As noted in Second Division Award NO. 7754, "However, just as the agreement applies a test of reasonableness and cooperation upon management, it also requires that the employee truly have good and sufficient reasons for their request. A short, unexplained request based on personal business does not meet the test - it is too brief and too broad for management to objectively evaluate."

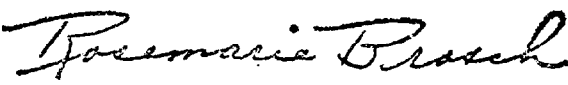
In applying this principle to this case, the Board finds on the merits that the Carrier's findings are based upon substantial and credible evidence, and we cannot find that any procedural or substantive rights of the Claimant were violated. Therefore, we will deny the claim.

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 15th day of December, 1982.