

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 Electrical Workers
{ Chicago, Milwaukee, St. Paul and Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company violated the current agreement when it unjustly assessed a thirty day deferred suspension with a one year probationary period beginning December 26, 1979 on Electrician Dean Dueppen for alleged failure to protect his assignment.
2. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company be ordered to withdraw the deferred suspension with one year probationary period and clear Electrician Dean Dueppen's record in connection therewith.

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, an Electrician currently employed by the Carrier in the Milwaukee Shops, Milwaukee, Wisconsin was sent a letter by the Carrier notifying him to report for formal investigation on December 26, 1979 to investigate the following charges:

- "1. Failure to protect your assignment on October 17 and 18, 1979 and November 5 and 7, 1979 when you were absent.
2. Failure to notify your foreman as early as possible that you would not be present to protect your assignment on October 17, 1979 and November 5, 1979 as required per Schedule Rule #16.
3. Failure to properly protect your assignment on October 31, 1979 and November 23, 1979 due to late starts/early quits."

The investigation on December 26, 1979 resulted in a finding that Claimant did fail to protect his job assignment as charged in the above-quoted charges. A thirty (30) day deferred suspension with a one year probationary period was issued and was withheld unless there should be cause for further discipline by suspension during the ensuing six months.

The carrier urges us to sustain the discipline because the Claimant admits he was absent for four working days and he failed to call his foreman in accord with Rule #16 of the controlling Agreement. In the main, the Organization makes one major argument: Claimant was not guilty of failing to protect his assignment because he was unavoidably kept from work as a result of illness on the days in question. To the Organization, since Claimant had either "the flu" or a bad back, Claimant had no control over the reason for his absence. Therefore, Claimant was indeed "unavoidably kept from work" in the sense that this Board has on numerous occasions found to be within an employee's rights.

On this record, it is clear that the Claimant's principal wrong-doing was his failure to notify the Carrier in advance and/or during the period of his absence. No evidence was presented that he was unable to do so if he so desired. Thus, the record shows that the Claimant did not notify his foreman of impending absence or delays as early as possible in violation of Rule #16 of the controlling Agreement. It is clear from the record that the Claimant fully understood the requirements of this Rule and that he had been properly counseled and warned about his attendance record, both verbally and in writing. There was no showing that the 30-day deferred suspension was excessive or arbitrary or inappropriate on the facts of this record.

The claim is, therefore, denied.

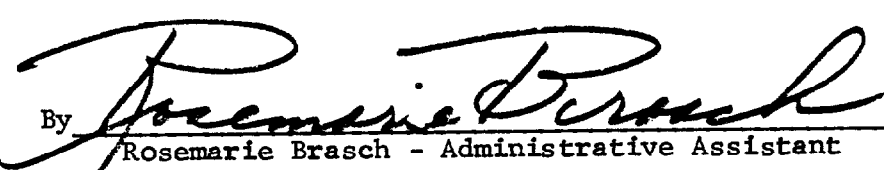
A W A R D

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 2nd day of February, 1983.