

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers
{ Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That the action of the Consolidated Rail Corporation (ConRail) in the dismissal of Electrician D. M. Richter from service on November 26, 1979 was unjust and unreasonable.
2. That accordingly, the Consolidated Rail Corporation (ConRail) be ordered to restore Electrician D. M. Richter to service with seniority unimpaired and pay for all lost time while 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.

The Carrier charged Claimant, an Electrician, with being absent from his assigned work area without permission on October 20, 1979. Following an investigation held on November 14, 1979, the Carrier found Claimant had committed the charged offense, and it dismissed him from service.

Most of the pertinent facts are uncontested. At approximately 10:30 a.m. on October 20, 1979, the Drop Pit Foreman (Claimant's immediate supervisor) observed that Claimant was working without his safety goggles. He told Claimant to put on his safety goggles. At 11:00 a.m., Claimant left his assigned work area to drive home to obtain his safety goggles. Before leaving the shop, Claimant neither asked nor received permission from the Drop Pit Foreman to go home. Also, Claimant never informed his supervisor that his safety goggles were at his home. The Day Shift Superintendent and the Assistant Shop Manager observed Claimant returning to the shop from the parking area at about 11:30 a.m. Claimant told the Superintendent and Manager that he had left his work area to go home to get his goggles. When Claimant turned in his time card at the conclusion of his shift, he claimed seven and one-half hours and marked himself off from 11:00 a.m. to 11:30 a.m.

The Organization urges this Board to sustain the claim because Claimant was merely following his supervisor's order to put on his safety goggles. Alternatively,

the Organization argues that dismissal is an exvessive penalty when measured against the infraction Claimant committed. On the other hand, the Carrier contends Claimant was guilty of leaving his work area without notice and without authority. Furthermore, the Carrier asserts that the assessed penalty was commensurate with the offense especially when Claimant's poor prior record is considered.

At the investigation, Claimant admitted that he departed the shop and went home to retrieve his glasses without first obtaining his supervisor's permission. By directing Claimant to wear his safety goggles, the Drop Pit Foreman was not authorizing Claimant to leave the shop since there is no evidence in the record which even suggests the Foreman knew Claimant had carelessly left his safety glasses at home. Instead of either asking for permission to go home or informing his Foreman that he did not have his safety goggles, Claimant unilaterally abandoned his assigned work area. Therefore, there was substantial evidence adduced at the investigation to demonstrate Claimant committed the charged offense.

We have carefully reviewed Claimant's prior disciplinary record. Claimant had been recently reprimanded for engaging in a similar violation. In addition, Claimant has served four prior suspensions including a dismissal where he was subsequently reinstated. The past discipline has not served as an incentive for Claimant to improve his conduct because he has continued to break reasonable work rules. Therefore, in spite of his nine years of service, we find no justification for reducing the assessed penalty.


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 30th day of March, 1983.