

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

Parties to Dispute: { Brotherhood Railway Carman of the United States
{ and Canada
{ Indiana Harbor Belt Railroad Company

Dispute: Claim of Employees:

1. That the Indiana Harbor Belt Railroad Company violated Rule #36 of the controlling agreement when they unjustly dismissed temporary Carman Jeredene Goodwin from their service on February 23, 1979, following investigation held on January 2, and February 2, 1979.
2. That accordingly, the Indiana Harbor Belt Railroad Company be ordered to reinstate temporary Carman J. Goodwin to service with all seniority rights, vacation rights, sick leave benefits, and all other benefits that are a condition of employment unimpaired. And, compensated for all time lost, plus 6% annual interest, and reimbursed for all losses sustained account loss of coverage under Health and Welfare and Life Insurance agreements during the time 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 was discharged from service for abandoning his assignment and falsifying his time card on January 9, 1979. Claimant had also allegedly failed to mark off duty on four days in late January, 1979.

The Organization argues that the Carrier did not meet its burden of proving Claimant was guilty of any offense. The Organization relies on Claimant's testimony that he performed all of his inspection duties on Tracks 16, 17, and 18 on January 9, 1979. Claimant spent three or four hours waiting in the Long Field Building due to a potential chemical hazard in the yard. The Organization submits that Claimant, therefore, had a rational explanation for standing idle during part of his shift.

The Carrier contends that the Yard foreman could not find Claimant anywhere near his assigned work area for most of his January 9, 1979 shift. The Carrier characterizes Claimant's testimony as both confusing and contradictory and so,

by implication, Claimant must be concealing the fact that he failed to perform his assigned duties.

We have carefully reviewed the transcript of the February 2, 1979 investigation and we conclude that the Carrier presented substantial evidence that Claimant was not available to perform his assigned duties and that he falsified his time card. Claimant conceded that he went home at least one-half hour early. The Yard Foreman testified that he could not find Claimant or his automobile fifty minutes before the shift ended. In addition, Claimant's whereabouts were unknown between 5:00 p.m. and 6:40 p.m. While Claimant could legitimately take twenty minutes for a meal break during this period, Claimant provided no reasonable explanation for being absent the remainder of the period. Even though Claimant abdicated his responsibilities and duties, he submitted a time card showing he worked a full eight hour tour of duty.

Claimant committed serious offenses. The Carrier must rightly rely on its employees to be available to perform duties during their assigned shift. Furthermore, many awards of this Board (too numerous to cite) have held that dishonesty is grounds for dismissal. These serious offenses in conjunction with Claimant's poor prior discipline record and his short length of service warrant this Board's decision to uphold the assessed discipline.

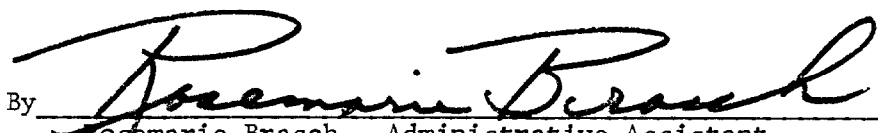
We need not consider the Organization's appeal of Claimant's alleged failure to report off duty on four days in January, 1979. Even if we were to sustain the Organization's arguments, we could not alter the ultimate disposition of this case. Similarly, since we have denied this claim on its merits, we need not address the Carrier's procedural objections regarding the alleged defects in the statement of the claim presented to this Board.

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 13th day of April, 1983.