Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 9463
SECOND DIVISION Docket No. 9435
2-IHB-FO-'83

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(Indiana Harbor Belt Railroad Company

Dispute: Claim of Employes:

1. That, in violation of the current agreement, Laborer Richard E. Mysliwiec was unjustly dismissed from service of the carrier following trial in absentia held on June 16, 1980.

2. That, accordingly, the Carrier be ordered to make the aforementioned Richard E. Mysliwiec 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.

Richard E. Mysliwiec, the Claimant, a laborer at the Gibson, Indiana, Enginehouse, began his service with the Carrier on April 15, 1977. On June 17, 1980, he was informed by the Carrier that he was dismissed by reason of his failure to report back to the Hammond Clinic for another examination on June 2, 1980. The Claimant did not, at that or any other time, report to the Clinic nor did he, despite receipt of notice, attend his trial on June 16, 1982.

The Organization contends the Carrier's decision is improper in that the Trial Officer denied Claimant's representative a postponement, and the Carrier failed to cite specific absence dates in the charges.

At the outset, this Board notes the Claimant was properly notified that a trial would be conducted on June 12, 1980. Despite such notification, the Claimant failed to appear and failed to provide anyone with a reason for his

non-appearance. Furthermore, the certified notice dated June 10, 1980, states the Claimant failed to report to the Hammond Clinic as instructed on June 2, 1980, and had not so complied as of June 10, 1980. Clearly, his absence was continuous.

The record before this Board establishes the Claimant failed to follow instructions and absented himself from work without contacting or notifying his General Foreman. This inexplicable conduct, coupled with Claimant's failure to appear at the trial and his prior record of discipline, evidences a total lack of concern for his position with the Carrier. We find the record fully supports the action taken by the Carrier in dismissing this Claimant.

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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 4th day of May, 1983