

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
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Laborer Leo M. Furey was unjustly dismissed from service of the Carrier following trial held on May 20, 1980.
2. That, accordingly, the Carrier be ordered to make the aforementioned Leo M. Furey 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.

The dismissed Claimant, Leo M. Furey, was a laborer at the Carrier's New Haven, Connecticut, MU Shop with thirty-four years of service. He was charged with failure to report for duty on April 8, 16, 22, 23, 24, 25, 28, 29, 1980, "... which in light of your previous attendance record constitutes excessive absenteeism." The trial originally scheduled for May 8, 1980, was held on May 20.

The facts established at the trial show the Claimant has a substantial record of prior discipline for absenteeism. As recently as April 21, 1980, he was issued a thirty day suspension for failure to report for duty. This suspension was deferred. From January 1, 1979, to April 30, 1980, the Claimant was absent a total of 186 days. The Organization argues it was improper for the Trial Officer to allow the Claimant's past record to be entered into the transcript. It also avers the Claimant did notify the Carrier of his most recent absences as soon as possible.

Unfortunately, for this long service employe, the record fails to support the Organization's position. The Carrier's charge of excessive absenteeism necessitates the introduction of evidence other than for the immediate absences in question. This Board deems such evidence appropriate when the purpose is to show that, over a period of substantial time, an individual's absence from duty has become so sporadic and/or frequent as to constitute excessive absenteeism.

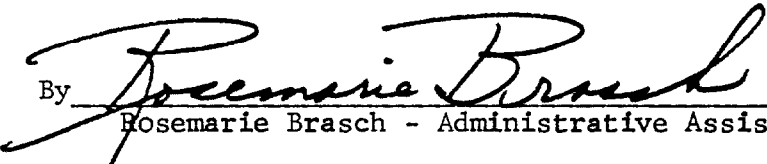
This Board regards the evidence developed at the trial to fully justify the conclusion reached by the Carrier. Notwithstanding the Claimant's long years of service, the record shows he has been granted frequent opportunities to alter his attitude and fulfill his obligation to report for duty on a consistent basis. Herein, the Claimant evidences a propensity to be habitually absent and, therefore undependable. In weighing his years of service versus the Carrier's need and right for employes to report to work as scheduled, this Board cannot find, under the circumstances outlined herein, that the Carrier's action was either arbitrary or unduly harsh discipline.

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 4th day of May, 1983.