

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute: { Sheet Metal Workers International Association
{ Southern Pacific Transportation Company

Dispute: Claim of Employees:

- (1) That Carrier arbitrarily and unjustly withheld claimant Sheet Metal Worker M. M. Snow from service on July 23, 1980 in violation of Rules 25 and 39 of current Motive Power and Car Department Agreement between Carrier and this Organization.
- (2) That Carrier pay claimant 8 hours pay at pro-rata rate for time lost due to arbitrary action of Carrier.

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 employed at the Carrier's Diesel Locomotive Maintenance Shop at Roseville, California, when on July 22, 1980 he was scheduled to work the 4:00 p.m. - 12:00 midnight shift. Per the Claimant, he was physically unable to meet his work obligations due to an earache; therefore, he called in to the facility several hours before commencement of his shift and advised a clerk that he would be unable to report for duty. He reported on the following day -- June 23 -- and was turned away on the basis that he had not afforded his foreman notice as to his status at least eight hours in advance of such shift. In essence, the Claimant's call to the clerk was not deemed by the Carrier as sufficient notice under Rule 25(a):

"Absence From Work

Rule 25. (a) An employe detained from work account sickness or for other cause, shall notify his foreman as early as possible. When returning to work he shall give the foreman in charge sufficient notice (at least 8 hours) so that proper arrangements may be made."

The Carrier also points to a notice posted on the bulletin board in 1978 which it contends made clear what employees in this situation are to do:

"ALL EMPLOYEES:

In order to avoid any misunderstanding or confusion, those employees wishing to lay off should contact a supervisor or a General Foreman to receive proper authority to be off.

When calling in to lay off, if the clerk should answer the phone at either the Service Track or Diesel Ramp, please ask to speak to either a supervisor or General Foreman."

The Organization does not dispute the fact that such notice was posted. The Carrier contends that the Claimant had had in the past a number of similar, one-day absences where he apparently secured the proper authorization, thus indicating he knew to contact his superior. The Organization contends the Claimant was disciplined by the Carrier's refusal to let him go to work on July 23, 1980.

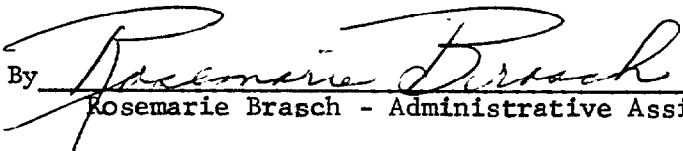
While the above-stated rationale leaves unanswered the question of how an employe would meet his/her obligation should a supervisor not be available to receive a call, there is no indication here that the Claimant followed the procedure and asked for his foreman or some other supervisor. The 1978 notice is specifically on point with the situation here. It is reasonable to conclude that, absent a showing that the 1978 notice was successfully disputed by the Organization and thus not the established procedure, the Claimant was obliged to comply. We need not address the question of whether the Claimant was -- or was not -- replaced by another employe on July 23, since a precedent conclusion that he was in error in the manner he called in has been made, and Rule 25(a) is clear enough on the need for at least eight hours notice prior to his return to duty.

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 6th day of July, 1983.