

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

Parties to Dispute: ( International Brotherhood of Firemen & Oilers  
(  
( National Railroad Passenger Corp.

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Coal Passer P. S. Madden was unjustly dismissed from service of the Carrier following investigation held on December 15, 1980.
2. That, accordingly, the Carrier be ordered to make the aforementioned P.S. Madden 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.

On December 4, 1980, the Claimant was absent from his assigned work location during a time period when it is alleged that he did not have permission from his Supervisor to be absent.

Following an investigation which was held on December 15, 1980, for the purpose of ascertaining the facts relative to the December 4th incident, the Carrier determined that the evidence adduced at the investigation supported a finding of guilt. The Claimant, therefore, was dismissed from service.

The parties are not in agreement as to the specific time frame during which the Claimant was absent. Moreover, there is no agreement as to the degree of permission needed to be absent from the work site, given the workload conditions in the unit, at the time the Claimant left his work place. In any event, upon

return to his work area, the Claimant was removed from service and asked to report to the Medical Department, so that a urine specimen could be obtained. The resultant laboratory reports proved positive for illicit narcotic substances.

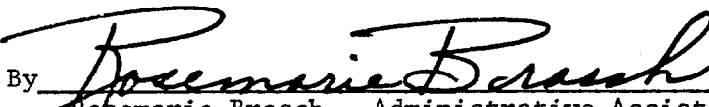
The Organization's arguments about the circumstances, surrounding the time frame during which the Claimant was absent from his work site, are not without merit. However, given the total record before us, coupled with the clearly-established violation of Rule C of the Rules of Conduct, the Board is satisfied that the dismissal of Claimant was not excessive. The claim, therefore, is denied.

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 20th day of July, 1983.