

The Second Division consisted of the regular members and in addition Referee Josef P. Sirefman when award was rendered.

Parties to Dispute: { International Association of Machinists and  
                                  { Aerospace Workers  
                                  { Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That the Consolidated Rail Corporation be ordered to restore Machinist S. T. Healy to service and compensate him for all pay lost up to time of restoration to service at the prevailing machinist rate of pay.
2. That Machinist S. T. Healy be compensated for all insurance benefits, vacation benefits, holiday benefits and any other benefits that may have accrued to him and was lost during this period, in accordance with Rule 7-A-1 (e) of the prevailing agreement which was effective May 1, 1979.

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 employees 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 S. T. Healey, a Machinist who entered Carrier's service on December 29, 1976, was charged with leaving work without permission on January 2, 1980. A trial was held on January 17, 1980 and Claimant was dismissed on January 28, 1980.

The record before this Board establishes that Claimant sought a number of times over a relatively short period of time for permission to leave his assignment and each time permission was denied by the supervisor. Nevertheless Claimant told the supervisor that he was leaving and he did so. The pivotal issue for this Board, as the organization expresses it in its submission is whether "Carrier acted in an arbitrary and capricious manner when they denied the Claimant the right to go and assist his girl while she was in need of aide"(sic.). The supervisor did not think that a girlfriend in trouble constituted a basis for leaving work. Rather he would have recognized a death or emergency in Claimant's immediate family as the type of extenuating circumstance justifying release from work.

This Board is mindful that many are living in a period of changing personal morals and life styles. Nevertheless, the workplace can only operate regularly

and efficiently when well established norms are adhered to, rather than open-ended transitional circumstances which by their nature do not offer clear and universally understood limits. A review of the record establishes that the hearing was not arbitrary or capricious. A review of the record further establishes that the hearing was fair and impartial, and there was substantial evidence to sustain the Carrier's decision to discipline Claimant. As Referee Roukis held in Second Division Award 7845:

"Claimant was found guilty of a very serious offense that cannot be tolerated in this critical industry. He left his job at 5:00 A.M. despite his supervisor's explicit refusal to grant him permission to leave at this time. He was obligated to remain at his job until the end of his shift which was 8:00 A.M. That he chose to disregard his supervisor's decision, in the absence of extenuating circumstances, was solely at his peril. It was a volitional choice that was just unacceptable.

We will not detail the many Second Division precedents dealing with like infractions, except to note the relevance of Second Division Award 4782, where we held in pertinent part, 'Disobedience consists in taking the law into one's own hands and is insubordination which is proper basis for dismissal.'

Claimant's behavior, in this instance, certainly falls within this definitional holding. It cannot be construed as innocuous deportment. If Carrier permitted its employees to disregard the work hours schedule, it would impede rail operations and adversely affect the public interest."

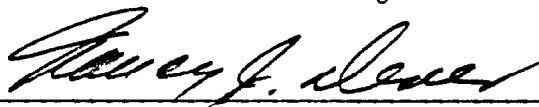
Given the seriousness of the offense in the face of more than one refusal of permission by the supervisor, dismissal is an appropriate penalty.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

  
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Nancy J. Dever, Executive Secretary

Dated at Chicago, Illinois, this 27th day of July, 1983.