

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

Parties to Dispute: ( International Association of Machinists  
( and Aerospace Workers  
( AFL-CIO  
(  
( Consolidated Rail Corporation

Dispute: Claim of Employee:

1. That the Consolidated Rail Corporation be ordered to remove the letter of reprimand from the record of Machinist E. W. Marshall.
2. The agreement of May 1, 1979 is controlling.

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 Claimant was disciplined with a formal letter of reprimand, as a result of a trial held on May 13, 1980, concerning six days of absence in April, 1980.

The Carrier, to support the discipline taken, relies upon the Claimant's absences during April 1980, and his past attendance record. However, nothing in the testimony or in the record available to this Board provides substance to the charge. The past attendance record relied upon by the Carrier is absent from these proceedings. Accordingly, in the absence of substantial evidence in the record to support Carrier's charge, the claim is sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board



Nancy J. Dever Executive Secretary

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