

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

Parties to Dispute: ( Brotherhood Railway Carmen of the  
( United States and Canada  
(  
( The Washington Terminal Company

Dispute: Claim of Employees:

The Washington Terminal Company improperly suspended Car Cleaner James Duckett ten (10) days in violation of the Agreement, specifically Rules 18 and 29, after an investigation on November 14, 1980.

In compliance with the provisions of Rules 18 and 29 the Washington Terminal Company should be ordered to compensate Mr. Duckett for his net wage loss as well as for any other loss he may have been caused to suffer due to the W.T.Co.'s miscarriage of justice.

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 as a Car Cleaner at the Carrier's facility. This dispute arises out of discipline assessed to him on the charge of absenteeism during the month of October, 1980, involving seven days absence. Initially, the Claimant was notified of the Carrier's Organization's intervention and disputation of the fact-situation apparently led to a conclusion that a ten-day suspension was warranted.

The Organization disputes the imposition of any discipline, contending that of the seven days of absence cited, the Claimant was excused early on three such days for cause, one day was improperly charged and thus dropped, he was fifteen minutes late on another and absent with justification on the other two. The Organization complains that after giving the Claimant permission to depart work early, the Carrier now endeavors to penalize him for such privilege. The Carrier contends that the Claimant's non-availability for work for the periods involved shows a disinterest on his part in his employment obligation and ineffective management of his time. It also cites the Claimant's disciplinary record to buttress its actions here.

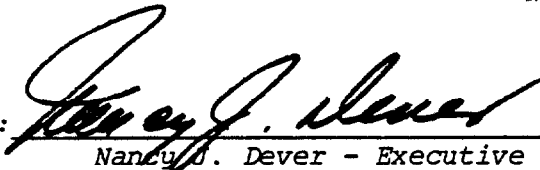
While this Board can agree with the Carrier that the Claimant's attendance record during the time period involved is far from ideal, it concludes that it is incumbent upon it to be correct in its facts when setting out the basis for discipline. Here, as details were developed, the nature of the Claimant's non-availability changed significantly. And while the Board can conclude that some discipline might be in order, we consider a ten-day suspension excessive; the Award is drawn accordingly.

A W A R D

While the Carrier demonstrated cause for discipline, the extent imposed was excessive. The discipline will be reduced to five days.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:



Nancy D. Dever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of February, 1984