

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

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

Dispute: Claim of Employees:

1. That Machinists D. P. Hoyer, Jr. was unjustly dismissed from the services of the Consolidated Rail Corporation under date of October 31, 1980.

2. That accordingly Machinist D. P. Hoyer's record be cleared and he be compensated for all time lost due to his dismissal, and that he be granted all other benefits that may be due him.

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 employes 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 D. P. Hoyer, Jr., is a Machinist in Carrier's Juniata Locomotive Shop in Altoona, Pennsylvania. He was dismissed from service for failure to return to duty from a disability leave on September 15, 1980, after having been medically certified to work, and for failing to report off from September 15, 1980 to October 2, 1980. A review of the record of this case reveals that Claimant apparently had some medical problems. For example, he had some problems breathing in the Airbrake Shop. Claimant's inability to appear at work on time on a regular basis and his medical problem eventually led to his dismissal.

This Division has reviewed the facts of this case and has concluded that Carrier has made its point in this instance and Claimant should be returned to work on a last-chance basis. Claimant should be aware that he will be required to pass a medical examination prior to being returned to work and that he will be required to appear at work when scheduled and remain at work for the completion of his shift. If Claimant has problems with the work area in which he is required to work, he can file a grievance later. Claimant should also view this as a last chance to become a worthwhile and competent employe. Claimant shall be returned to work with seniority intact but with no back pay for lost time or benefits.

Form 1  
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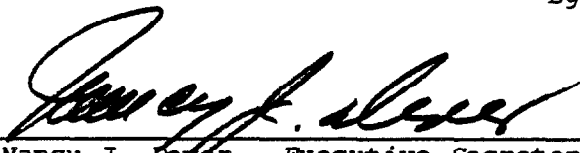
Award No. 9819  
Docket No. 9553  
2-CR-MA-'84

A W A R D

Claim sustained in accordance with the findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
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Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 7th day of March, 1984