

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(
(Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

1. That under the current and controlling agreement Service Attendant B. L. Fant, I. D. No. 111115, was unjustly dismissed from the service of the Louisville and Nashville Railroad Company on September 9, 1981 after a formal investigation was held on August 20, 1981.
2. That accordingly, Service Attendant B. L. Fant, Jr., be restored to service at the Louisville and Nashville Railroad Company, South Louisville Shops, Louisville, Kentucky, compensated for all lost time, vacation, health and welfare, hospital, life and dental insurance be paid effective August 20, 1981 when Mr. Fant was suspended from service and the payment of 6% interest rate be added thereto.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

Service Attendant B. L. Fant, Jr., entered the Carrier's service on July 5, 1973. On August 5, 1981, he was charged with excessive absenteeism. An investigation was scheduled for August 13, but, on that day, the Claimant was charged with another offense. By mutual agreement, the investigations for excessive absenteeism and the second charge were both scheduled for August 20, 1981. On September 9, the Grievant was informed that he had been found guilty of excessive absenteeism and that his employment was terminated.

The Organization contends the Claimant complied with Rule 22 by reporting off when he was ill and that the Carrier had knowledge of his personal problem. The record establishes the Claimant was cautioned about his absenteeism in April of 1981. In the following four months, he was late or tardy fourteen times and absent fifteen times. At the investigation, the Claimant acknowledged his obligation to work forty hours a week; yet, admitted he was having some problem with his "nerves".

Review of the record herein reveals substantial evidence was developed which clearly supports the charge of excessive absenteeism. Having so determined, we must now consider the appropriateness of the penalty of termination. The Claimant's employment record shows that twice before he had been discharged. The last termination involved excessive absenteeism just as does the present charge. Considering all the circumstances and previous allowances granted the Claimant, we cannot find any abuse of Carrier of its discretion in assessing the penalty of removal from service.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

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