

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen and Oilers
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(Seaboard Coast Line Railroad Company

Dispute: Claim of Employee:

1. That under the current and controlling agreement, as amended, Laborer J. L. Whigham, I. D. No. 165175, was unjustly suspended from the service of the Seaboard Coast Line Railroad Company, on October 8, 1981 through December 6, 1981 after a formal investigation was held in the office of Mr. J. C. David Shop Superintendent, and Conducting Officer, on August 20, 1981.
2. That accordingly, Laborer J. L. Whigham be compensated for all lost time, vacation, health and welfare, hospital and life insurance and dental insurance be paid effective October 8, 1981 through December 6, 1981, both dates inclusive 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 employe or employes involved in this dispute 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 J. L. Whigman, began his employment with the Carrier on March 27, 1973.

On August 6, 1981, Claimant was charged with excessive absenteeism, tardiness, unsatisfactory service, and violation of Rules 2 and 19 of the current working agreement.

Rule 2 states in part that "an eight-hour period shall, under provisions hereinafter set out, be the regular work day."

Rule 19 states that "in case an employee is unavoidably kept from work, he will not be discriminated against. An employee detained from work on account of sickness or for any other good cause shall notify his Foreman as early as possible."

Following a formal investigation held on the property on August 20, 1981, Claimant was found guilty of excessive absenteeism and tardiness and was held out of service for the period October 8, 1981, to December 6, 1981.

The Claimant contends that the tardiness and absences were for good reason, and, therefore, the suspension was unjust under Rule 19.

A record of the Claimant's time lost from July 29, 1980, through August 7, 1981, which was read into the investigation, shows that the Claimant was absent 34 whole days and 13 partial days during that period. He was tardy at least 18 times during the same one-year period.

Claimant was unable to explain his tardiness. His explanation for his excessive absences was that he was sick.

The record also contains three letters from December 6, 1973, to March 20, 1978, in which Claimant was reprimanded for his tardiness and absenteeism. He was thereby on notice that his attendance record was unacceptable to the Carrier and that further absenteeism and tardiness would lead to more serious disciplinary action against him.

It is common and acceptable, unless expressly prohibited by the contract, for a Carrier to charge an employe with excessive absences even where some of the absences are due to illness. The Carrier, in general, has the right to expect reasonably regular attendance from its employes. Constantly recurring, relatively short periods of absence which establish a pattern of chronic absenteeism over a period of time need not be tolerated by an employer even though notice has been given for each of the absences and even though the reasons tendered appear to be credible.

A disciplinary penalty imposed by the Carrier can be challenged before the Board only on the grounds that it was arbitrary, capricious, excessive, or an abuse of a managerial discretion. The record in this case contains ample evidence to support the Carrier's disciplinary action. The Claimant had been warned on several occasions in the past and is now facing a 60-day suspension. The Board finds that the Carrier's action to be a good example of progressive discipline.

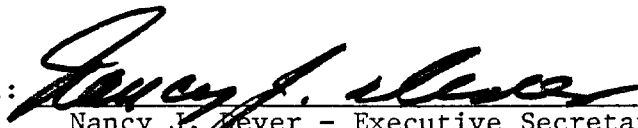
On the record before the Board, there is no proper basis for the Board to disturb the action of the Carrier.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of April, 1984.