

The Second Division consisted of the regular members and in addition Referee Edward M. Hogan when award was rendered.

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

Dispute: Claim of Employees:

1. That under the current and controlling agreement, Laborer G. W. Hawkes was unjustly dismissed from the service of the Seaboard Coast Line Railroad Company on March 6, 1981, after a formal investigation was held in the office of Mr. R. D. Brigman, Jr., Master Mechanic, on February 20, 1981.
2. That accordingly Laborer G. W. Hawkes be restored to his regular assignment at Uceta Shops with all seniority rights unimpaired, vacation, health and welfare, hospital and life insurance be paid and be compensated for all lost time effective March 6, 1981, and the payment of 6% interest rate 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 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 was dismissed from the service of the Carrier following a formal investigation of the charges of not reporting for his assignment, being absent without permission, and reporting late for work.

Claimant was assigned 7:30 a.m. to 3:30 p.m. Monday through Friday as a laborer at the Uceta Enginehouse, Tampa, Florida. During a two-week period spanning the last week in January and the first week in February, 1981, the Claimant did not attend work on a regular basis. This sporadic attendance was coupled with a failure to call into his foreman, unexcused absences, and reporting late to work.

As a consequence of Claimant's unpredictable attendance, an investigation was scheduled. The Carrier properly notified the Claimant of the investigation in a clear and concise letter, which provided Claimant adequate notice of the charges preferred against him. The notice was sufficiently precise to permit the preparation of a reasonable defense by Claimant and his representative.

The transcript of the investigation was carefully reviewed and it is noted that the Claimant was afforded able representation by his Organization. However, this Board is unable to accept the Claimant's excuses and explanations for his erratic attendance and unjustified absences. We have previously held that a pattern of indifference and continuous absenteeism are sufficiently grounds to warrant discipline or discharge.

In this case, the Claimant has acknowledged his own guilt through his admissions during the investigation. Thus, on the record and in light of Claimant's own admission, we must conclude that the Carrier sustained its burden of proof and that the Claimant was guilty. Claimant's prior record is properly before this Board as Claimant had notice in the letter of charges that his personnel record would be reviewed at the close of the investigation. Claimant's prior record was not good and indicates several disciplinary actions for similar offenses.


This Board is limited to the record developed and presented on the property and absent a showing of arbitrary, capricious or unreasonable action, we must sustain the Carrier's findings. Here, there is substantial evidence to support Carrier's actions. We must deny the claim.

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 16th day of May, 1984