

The Second Division consisted of the regular members and in addition Referee Ida Klaus when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(
(Southern Pacific Transportation Company

Dispute: Claim of Employes:

1. That in violation of the current agreement, Firemen and Oiler Steve Halstead, was unjustly suspended from the service of the Carrier for 15 days from October 1, 1980 through and including October 15, 1980.
2. That accordingly, the Carrier be ordered to compensate the aforesaid employe at the pro-rata rate of pay for all time lost due to the unjust 15 day suspension.

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.

The claimant protests that he was unjustly suspended from service for 15 days on charges of insubordination and absence from his assignment without authority. He seeks compensation for the time lost.

The Organization challenges the discipline, imposed after trial, on two grounds: (1) That the claimant was denied a fair hearing by the disallowance of the representative's request for Carrier time records to show that the claimant gave illness as the reason for marking off. (2) That the Carrier has failed to support the charges made.

The claimant does not dispute the essential facts alleged in the charges against him. He concedes that he left his assignment in mid-shift despite his immediate supervisor's denial of permission to do so, and that he refused at the time to discuss the incident on the telephone with the Assistant Plant Manager. He argues that he nevertheless committed no offense, for two reasons: First, he felt too ill to continue work and had tried to obtain his supervisor's permission to mark off absent for the remainder of his shift. Second, he refused to discuss the matter by telephone with the Assistant Plant Manager because no union representative was present. The claimant was himself a union representative. Although his immediate supervisor did not recall any mention of illness as the main reason for the requested permission, it appears from the record that illness was given as a secondary reason.

Upon careful analysis of the record, the Board concludes that the charges are supported by substantial evidence of a probative nature and that the discipline imposed is not unreasonable. It is clearly established that the claimant walked off his job without prior authority and that he refused a further order to discuss his conduct with a supervisor. He has failed to show a reasonable basis for his open defiance of his superiors. His mere claim of illness, even if it could be deemed genuine, cannot be found sufficient to justify his disregard for authority. It follows that the evidence sought from the Carrier records would not have strengthened the claimant's case and that their exclusion did not prejudice the claimant's right to a fair trial. Furthermore, the absence of a union representative, even if seriously asserted, does not excuse his refusal to discuss informally with higher supervision not present at the scene the differences of the moment between himself and his immediate supervisor. The claimant was himself a union representative and should have known that his rights would not be prejudiced under these circumstances. In a word, the grievant was plainly and inexcusably insubordinate.

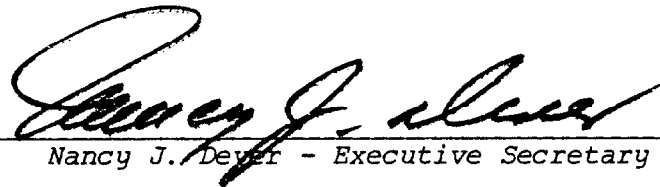
The claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:



Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 6th day of June, 1984