

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

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(The Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

1. That, under the current Agreement, the Baltimore and Ohio Railroad Company unjustly dismissed from service Machinist Helper J. A. Galloway, from the date of April 1, 1981.

2. That, accordingly, the Baltimore and Ohio Railroad Company be ordered to reinstate Machinist Helper J. A. Galloway to his former position, compensate him for all time lost, from April 1, 1981 until restored to service, with seniority unimpaired, made whole for all vacation rights, and payment for Health and Welfare and Death Benefits, under Travelers Insurance Policy GA-23000 and Railroad Employees' National Dental Plan GP-12000.

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.

Following an investigation held on March 13, 1981, the Claimant was dismissed from the service of the Carrier because he was absent without permission and failed to protect his assignment on March 1 and March 4, 1981. The Claimant had been employed as a Machinist Helper at the Carrier's Locomotive Facilities, located at Cumberland, Maryland.

The Claimant did not work his regular job assignment on March 1 and March 4, 1981. At the investigation, he acknowledged that he did not have permission from the Carrier to be off on these days. He admitted that he did not call in on March 1, 1981 to mark off his job assignment because he "was in the process of moving." The Claimant added that on March 4 he was "too busy moving from Cumberland to Keyser, West Virginia", a distance of approximately twenty (20) miles.

By failing to mark off his job on March 1 and March 4, 1981, the Claimant did not comply with the policy letter issued by the Carrier on June 24, 1980, which contained the procedure to be followed when employees "mark off and mark up for duty". The policy letter was posted on the bulletin board, which the Claimant indicated, he "read***at least once a day". Not only did the Claimant know or should have known the procedure which was required to be followed for marking off for duty, he was called to the office of the Assistant Shop Manager on March 2, 1981 where the portion of the Shop Craft Agreement on absence without permission was discussed and read to him.

Having established that the Claimant committed the offenses contained in the charge, it was entirely proper for the Carrier to take into consideration the Claimant's past record in assessing discipline. See, for example, Second Division Award No. 1367, and Third Division Award No. 23113. The Claimant has been counselled, warned and disciplined for repeated instances of excessive absenteeism since 1977, when he first entered the service of the Carrier. By letters from the Carrier dated November 14, 1979 and October 17, 1980, the Claimant was notified that he had been absent an excessive number of days and that such continued absence from duty without justifiable reason would result in the issuance of formal charges against him.

The Claimant's past record of excessive absenteeism cannot be severed from his failure to mark off on March 1 and March 4, 1981. By indicating that he was "too busy moving" a distance of twenty (20) miles to call the Carrier and mark off from duty, the Claimant demonstrated an indifferent attitude and cavalier approach towards his service obligations. The failure to telephone the Carrier is a simple gesture which is not time consuming. It cannot be urged that mitigating or extenuating circumstances were present on March 1 and March 4, 1981.

The Board is persuaded by the record that the Claimant's dismissal from the service of the Carrier was justified.

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 13th day of June, 1984