

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

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That the Consolidated Rail Corporation be ordered to restore Machinist F. H. Bolton to service and compensate him for all pay lost up to time of restoration to service at the prevailing machinist rate of pay.
2. That machinist F. H. Bolton be compensated for all insurance benefits, vacation benefits, Holiday benefits and any other benefits that may have accrued and were lost during this period, in accordance with Rule 7-A-1 (e) of the prevailing agreement effective May 1, 1979.

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.

Machinist F. H. Bolton was dismissed from service by the Carrier, Consolidated Rail Corporation, following a trial for insubordination resulting from failure to report for his physical examination after being properly notified to report. F. H. Bolton not only failed to appear for his physical examination, he failed to appear for his trial; and, prior to his trial, he failed to appear following notices to him by the company. In fact, trial was postponed four (4) times at the employe's request. Testimony was quite clear that the Claimant failed to appear for his physical examination and since that time he has not appeared or made contact with the Carrier. Claimant was represented at the trial by the Organization and was competently represented in his absence throughout all stages of the proceedings. Failure to appear for justifiable cause creates a due-process consideration. However, failure to appear at a physical examination and at all phases of the proceedings, including the trial, without any excuse whatsoever is proof positive that the job is not an important consideration in Claimant's life.

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Award No. 10029
Docket No. 9703
2-CRC-MA-'84

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 8th day of August, 1984.