

The Second Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen and Oilers
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(Belt Railway Company of Chicago

Dispute: Claim of Employees:

1. That Laborer T. L. Luick was unjustly disciplined from May 6, 1982 until May 10, 1982.
2. That accordingly, Laborer T. L. Luick be reimbursed for these four (4) days of suspension. Further, that the record of the investigation and suspension be removed from his file.

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.

This is a claim for time lost by the Claimant for a four day suspension from service following a formal investigation on the charge that Claimant failed to protect his regular work assignment in violation of Rule H of the Belt Railway Company of Chicago which provides as follows:

"Employees must be alert and devote themselves exclusively to the Company's service, attend to their duties during the hours prescribed, and comply with the instructions from the proper authority in matters pertaining to their respective branches of the service. They must not absent themselves from duty, exchange duties with, or substitute others in their place, nor engage in other business without proper authority.

They must report for duty as required and those subject to call for duty will be at their usual calling place, or leave information as to where they must be located."

The Organization argues that the Claimant's suspension was unjust because (1) he was disciplined based on a rule that is not a part of the controlling agreement between the Carrier and the Organization; (2) the Claimant did attempt to comply with the above rule by calling in, but because of Carrier policy, Claimant was not allowed to report late for work. The Organization further contends that the discipline assessed herein was arbitrary and capricious.

The record in the instant case discloses that the Claimant is employed by the Carrier in its Diesel Shop facility on the 11:30 p.m. to 7:30 a.m. shift, Clearing Yard, Chicago, Illinois. On April 29, 1982, Claimant failed to report for his regular assignment and did not so notify the Carrier in advance of his starting time. Approximately four hours after his shift began, Claimant called in stating that he had overslept. The record shows no contention by the Claimant that he requested to protect the remaining portion of his work assignment.

With this as factual background the Board finds, as established in numerous prior awards, that there is an obligation on the employe to protect the Carrier's service on the days he is assigned to work. (See this Division Award Nos. 6710 and 8216). The issue here is not whether, as a hypothetical matter, the Claimant could have reported late for work if he so requested, but whether Claimant in fact fulfilled his obligation to protect his work assignment on the day in question. Herein, Claimant concedes that he did not notify the Carrier that he overslept until approximately four hours of his shift had elapsed. The Board finds that under these circumstances, there is substantial evidence with regard to Claimant's non-compliance with Rule H.

With regard to the discipline assessed, the Board notes that numerous prior awards of this Board have set forth the principle that absenteeism is a serious infraction, and that excessive and habitual failure to report to an assignment is sufficient grounds even for dismissal. (For example see Second Division Awards 7348, 8216, 8523). The Carrier could hardly maintain normal operations unless its employes regularly report to work. Second Division Award 7870. The discipline imposed here is not arbitrary, capricious or unreasonable, and there is no basis on which the Board should interfere with the Carrier's action. The record is adequate to support the penalty assessed.

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 22nd day of August 1984.