

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

Parties to Dispute: ( International Brotherhood of Fireman and Oilers  
(  
( Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Laborer L. A. Beatty was unjustly dismissed from service of the Carrier following trial held in absentia on November 13, 1980.
2. That, accordingly, the Carrier be ordered to make the aforementioned L. A. Beatty whole by restoring him to Carrier's service, with seniority rights unimpaired, made whole for all vacation rights, holidays, sick leave benefits, and all other benefits that are a condition of employment unimpaired, and compensated for all lost time plus ten [10%] percent interest annually on all lost wages, also reimbursement for all losses sustained account of coverage under health and welfare and life insurance agreements during the time he has been held out of service.

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 a hearing, the Claimant was found guilty of unauthorized absence from duty and not performing any work for 50 minutes, and was dismissed from service.

The facts are uncontroverted. The Claimant, a Laborer, was discovered to be absent from his assigned work location for fifty minutes on October 31, 1980. He was found off the work premises.

The Organization asserts that the hearing was not fair in that the Claimant's past record was introduced into evidence without limiting its consideration to the assessment of discipline. It further asserts that the penalty was unreasonable and arbitrary. We find both contentions to be without merit.

We are persuaded that the Carrier did not use the Claimant's past record to establish his guilt as to the offense charged. The undisputed evidence was itself sufficient to establish his guilt.

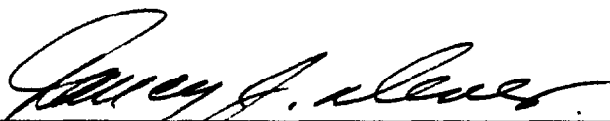
Upon review of the entire record, the Board finds the discipline imposed commensurate with the gravity of the offense, particularly in light of the Claimant's past disciplinary record in his four years of service. That record includes a series of disciplinary actions ranging from a reprimand to a 90-day suspension for insubordination. The Board looks favorably upon this form of progressive discipline and finds the Claimant's dismissal wholly reasonable in this instance.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
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Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of January 1985.