

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
(The Western Pacific Railroad Company

Dispute: Claim of Employees:

1. That under the current agreement Firemen and Oiler J. P. White was unjustly suspended from the service of the Carrier, for 10 working days.

2. That accordingly, the Carrier be ordered to:

To compensate the aforesaid employe for the 10 working days, that he was suspended, at the pro-rata rate of the position he held at the time he was suspended.

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 claim protests a 10-day suspension imposed on the Claimant for failure promptly to report an on-duty injury and for presenting a false Doctor's release.

On February 28 the Claimant was working overtime on an 8:00 a.m. to 4:00 p.m. shift. At about 1:30 p.m. the Claimant told his Supervisor that his back was hurting and that he would like to leave early; he then left work at about 1:50 p.m. When the Claimant reported on March 1 for his regular 12 midnight to 8:00 a.m. shift, he told his regular shift Supervisor that he had been injured on the job the day before. His Supervisor wrote the Claimant a treatment order, had him fill out an accident report and let him leave. On March 3, the Claimant saw a Doctor and was given a release to report back to work on March 6, a copy of which was sent to the Carrier. The Claimant did not return to work until March 10, when he presented a Doctor's certificate stating that he was under the Doctor's care from February 28 until March 9, and releasing him to return to work on March 10.

The Carrier argues that the Claimant violated the Carrier's rules by failing to file an accident report on the day the alleged injury occurred. It also argues that the Claimant presented a Doctor's release which falsely stated that the Claimant was under Doctor's care from February 28 until March 9, and was released to return to work on March 10.

The Organization takes the position that by notifying his Supervisor on February 28 that he had a back problem, the Claimant reported an injury and that the Supervisor negligently failed to initiate the filing of an injury report. The Claimant disputes that the Doctor's release for March 10 contained any misrepresentations, and maintains that the Doctor told him to pick up a release whenever he felt well enough to work.

After careful review of the record, the Board finds that the claim must be denied. It is undisputed that the Claimant failed to report his injury on the day on which it allegedly occurred. His remark that his back hurt did not inform the Supervisor that the Claimant had injured himself on duty; it could have meant that the Claimant was suffering from an off-duty injury.

The charge that the Claimant presented a false medical release must also be sustained. The Doctor's first certificate, which was sent directly to the Carrier, released the Claimant for work on March 6. The Shop Superintendent credibly testified that upon calling the Doctor he learned that the Claimant obtained the second release by telling the Doctor's bookkeeper that he had lost his copy of the first release and then giving her false information which she did not check. The Claimant's testimony that the Doctor agreed to give him a release whenever he was feeling well enough to return to work is implausible.


The 10-day suspension was a reasonable penalty for the Claimant's offenses. Accordingly, the claim must be denied.

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 9th day of January 1985.