

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

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That under the current and controlling agreement, as amended, Laborer Sam M. Mosley, I. D. 171285, was unjustly suspended from the service of the Seaboard Coast Line Railroad Company on July 5, 1982, after a formal investigation was held in the office of Mr. M. C. Coley, Jr., Master Mechanic, and was conducted by Superintendent J. W. Crout on July 26, 1982.
2. That accordingly, Laborer Sam Mosley be compensated for all lost time, vacation, health and welfare, hospital and life insurance and dental insurance be paid effective July 5, 1982 through September 2, 1982, and the payment of 6% interest rate be added thereto.

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 significant events leading to this dispute began at approximately 3:30 p.m. on July 4, 1982, when the Claimant appeared at his work site for a scheduled 3:00 p.m. work assignment. At that time, the Claimant submitted to his Supervisor a Carrier-provided form to be used by employes if they desired to be off on July 4. The Claimant desired to be off that day and he maintains that the Carrier had earlier put out instructions that such requests would be granted.

In the instant case, the Carrier official denied the request, contending that he had a need for the Claimant's service. At that stage, the Carrier asserts, and after some discussion between the parties, the Claimant refused to work and he was taken out of service by his Supervisor. Subsequent to an investigation, he was assessed a penalty of a 60-day suspension for a violation of a number of the Carrier's rules.

The Organization, as it progressed this claim, relies on its construction of the Shop Superintendent's letter which transmitted the Carrier form, a copy of which the Claimant gave to his Supervisor so that he could be off July 4. The Organization essentially contends that all that was needed to be off was for employees to complete and submit the form, which the Claimant did.

While there may be a reasonable basis for argument with respect to the wording of the Superintendent's letter, we find, when the letter and form are taken together and read in their entirety, that absence, on the date in question, would be of a permissive nature, requiring prior approval. Accordingly, the Carrier's finding of guilt is sustained.

Nevertheless, given the events as they occurred and all the peculiar circumstances herein, the 60-day suspension is excessive and is thus lowered to 30 days. The Employee is to be made whole with respect to seniority rights unimpaired and compensation for 30 days, while out of service.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:



Nancy J. Bever - Executive Secretary

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