

The Second Division consisted of the regular members and in addition Refere Hyman Cohen when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(
(Southern Pacific Transportation Company
(Western Lines)

Dispute: Claim of Employees:

1. That under the current Agreement, Mechanical Department Electrician R. E. Chaney was unjustly treated when he was dismissed from service on August 4, 1981, following investigation for alleged violation of portions of Rule 801 of the General Rules and Regulations of the Southern Pacific Transportation Company (Pacific Lines). Said alleged violation occurring on June 1, 2, 8, 16, 17, 29 and 30, 1981.
2. That accordingly, the Southern Pacific Transportation Company (Pacific Lines) be ordered to:
 - (a) Restore Electrician R. F. Chaney to service with all rights unimpaired, including service and seniority, loss of wages, vacation, payment of hospital and medical insurance, group disability insurance, railroad retirement contributions, and loss of wages, including interest at the rate of ten percent (10%) per annum.

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 Claimant entered the Carrier's service as a Mechanical Laborer on February 16, 1971. He was employed as an Electrician at the Carrier's Roseville, California, Locomotive Repair Plant, during the month of June, 1981.

After a hearing which was held on July 15, 1981, the Claimant was dismissed from service because he submitted fraudulent time cards for the first and second half of June, 1981. His actions constituted a violation of Rule 801 which provides in relevant part:

"Employees will not be retained in service who are... dishonest..."

It is undisputed that on June 1, 2, 8, 16, 17, 29 and 30, 1981, the Claimant called in sick and was absent from work on these days. However, the time cards submitted by the Claimant disclosed that he had worked on these days. The Claimant signed his time card for the second period or second half of June, 1981. He had forgotten to sign his time card for the first pay period of June. He was paid for all of the working days in the first and second periods of June. After receiving notification of the formal hearing in the instant case, the Claimant received his pay check for the second period of June. He then filled out a form indicating that he had been overpaid for the second period of June, 1981. No such disclosure was made by the Claimant for the Carrier's overpayment to him for the first pay period of June.

The record warrants the inference that the Claimant was responsible for forging the names of Supervisors on his time card for the purpose of defrauding the Carrier of monies for seven (7) days in June, 1981 on which he did not work. There is no evidence to indicate that anyone other than the Claimant filled in the Supervisors' initials and hours worked on his time cards.

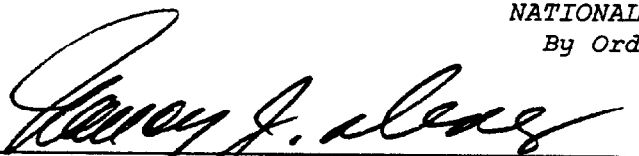
Without elaborating on the past record of the Claimant it is enough to say that it was less than satisfactory. By dismissing the Claimant from service, the Carrier did not act in an arbitrary and capricious manner and did not abuse its managerial discretion. The Board is persuaded that the Carrier satisfied the burden of proving that the Claimant violated Rule 801 by submitting time cards for the purpose of receiving payment for days on which he had not worked. Such dishonest conduct must be viewed as an extremely serious matter. When the Claimant's infractions in June, 1981 are considered in light of his past disciplinary record, there is no basis on which to modify or set aside his dismissal from service.

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 23rd day of January 1985.