

The Second Division consisted of the regular members and in addition Referee Barbara W. Doering when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen & Oilers
(
(The Washington Terminal Company

Dispute: Claim of Employees:

1. That under the current agreement Donald S. Young, Laborer, was unjustly dismissed from the service of the Washington Terminal Company effective October 6, 1980.
2. That accordingly the Washington Terminal Company be ordered to restore Donald S. Young with seniority rights, vacation rights, and all other benefits that are a condition of employment, unimpaired, with compensation for all lost time plus 10% annual interest. Also that he be reimbursed for all losses sustained account of loss of coverage under health and welfare and life insurance agreements during the time 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.

Claimant Donald S. Young, employed for 2 years as a laborer, was dismissed from service and dropped from the rolls on October 6, 1980 on a finding of violation of Rule 4 for being off duty without permission since September 25, 1980.

The record revealed that in his two years of service Claimant had 250 days of absence and 4 occasions of discipline: once for sleeping; once for being absent from his assignment; and twice for excessive lateness.

The absence which precipitated his dismissal was only the final absence in a series stemming from an eye injury on August 25th. After returning to work on August 30th Claimant worked only until September 5th when he went to the Medical Department complaining of trouble with his eyes. He refused an appointment with the Company Doctor, stating he would see his own Doctor. Thereafter the record is full of attempts by the Medical Department to obtain verification of his alleged eye problem and equally full of failure on his part to cooperate.

While it is true that during the period from September 5th to the 25th Claimant suffered a death in his family, of which he informed Carrier on September 17th, it cannot be argued that this event somehow excused his subsequent failure to verify his alleged continuing eye problem. In response to a phone call from the Medical Department a week later (on September 24th) he agreed to come in the following day, at which time he produced a note from his Doctor stating he had been under the Doctor's care from September 7, 1980 to September 12, 1980. He claimed he was still having trouble with his eyes, but refused to let the nurse test his eyes and further failed to keep an appointment that afternoon with Carrier's Ophthalmologist. This appointment was subsequently rescheduled for September 29, 1980 and he again failed to keep it.

On October 6th Claimant was informed by certified letter that he was dismissed and being dropped from the rolls under Rule 4 for absenting himself without permission for a period exceeding five days.

The Organization argues that Claimant continued under a Doctor's care based upon the fact that he eventually produced a Doctor's slip dated October 24, 1980. Aside from the belated nature of this document, the Board notes that it merely states that Claimant had his eyes examined on that date. There is no indication in it that he had been under the Doctor's care at any time relevant to the charges, nor indeed that there was anything wrong with his eyes.

It is undisputed that Claimant was aware of the September 29, 1980 appointment and had no reason to believe that his absence would be excused if he failed to keep it. He did not contact Carrier or offer any justifiable reason for failure to do so.

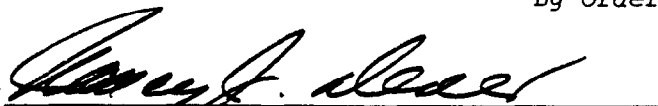
Thus, there is no basis for interfering with the discipline imposed by the Carrier, and the claim is denied.

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 6th day of March 1985.