

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

(International Brotherhood of Firemen and Oilers
(System Council No. 19
Parties to Dispute: (
(The Southern Pacific Transportation Co. (Pacific Lines)

Dispute: Claim of Employees:

1. That in violation of the current agreement Fireman and Oiler R. E. Kendall, was unjustly dismissed from the service of the Carrier on March 14, 1980, following a hearing held on February 12, 1980.

2. That accordingly, the Carrier be ordered to make the aforementioned R. E. Kendall, whole by restoring him to Carrier's service with seniority rights unimpaired, plus restoration of holiday, vacation, health and welfare benefits, pass privileges and all other rights, benefits and/or privileges that he is entitled to under rules, agreements, customs or law and compensated for all lost wages. In addition to money claimed herein, the Carrier shall pay the Claimant an additional amount of 6% per annum compounded on the anniversary date of this claim.

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 R. E. Kendall, employed for 15 months as a Laborer, was dismissed from the service of the Carrier, after investigation, on the finding that he had an unauthorized absence from January 25 through February 6, 1980 and that he had further falsified his original employment application.

Claimant allegedly injured his knee at work on January 22nd. He told his supervisor at this time that he had had a previous injury to the same knee. He was returned to work with a restriction on climbing on the 23rd. On January 24th, he worked two hours and then left saying his knee hurt and was told that he would have to contact an Officer of the Carrier if he wanted additional days off. Claimant's fiancée picked up his check on the 25th and indicated to the Clerks that Claimant would not be at work because his knee hurt.

Carrier Representatives made efforts to contact him. On February 1st, having discovered that he was working another job as a carpenter, Carrier Representatives went out to the home where he was working. Claimant alleged that the work was light and did not bother his knee. He also admitted having suffered a torn cartilage in that knee when he was in the Navy and that it had been in a cast for a month. This prior injury had not been reported on his employment application. Claimant was told that he would be expected to work that day for his 4 p.m. to midnight shift. He did not report, nor did he contact any officer of the Carrier with respect to his absenteeism after January 24th.

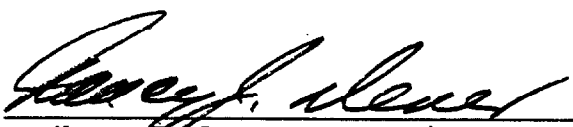
After a careful review of the entire record, the Board finds that there was substantial evidence in support of the Carrier's findings, and further that there was no violation of Claimant's procedural or substantive rights. Accordingly, we will deny the claim.

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.