

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada
(The Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

- No. 1. That the Baltimore and Ohio Railroad Company violated the controlling Agreement, specifically Rule 32, when on the date of March 24, 1982 the (sic) subjected Claimant to an unfair and partial hearing, the result of which, allegedly, Carrier imposed upon Claimant discipline to the extreme extent of (thirty (30) days actual suspension, from the date of April 18, 1982 to the date of May 18, 1982.
- No. 2. That accordingly, Carrier be ordered to compensate Claimant for all time lost as a result of such unwarranted discipline, compensating him five (5) days per week, eight (8) hours per day, for the duration of his imposed suspension, making him whole for all loss arising out of this incident.

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 has been employed by the Carrier as a Carman at its Glenwood Shops located in Pittsburgh, Pennsylvania. Before the events giving rise to the instant claim, he had been in the service of the Carrier for approximately three (3) years and six (6) months.

After an investigation that was held on March 24, 1982, the Claimant was suspended for thirty (30) days for the following infractions: failure to perform his assigned work in performing terminal air brake tests with the crew before departure of the 6:15 a.m. and 6:45 a.m. Port Authority Runs No. 100 and No. 200 on March 19, 1982; absence from 6:15 a.m. until 7:00 a.m. from his assigned work area; and falsification of his time card on March 18, 1982 for having claimed eight (8) hours of pay for work performed.

The record discloses that the Claimant admitted that while he was absent from his assigned work area on March 19, 1982, he failed to perform his assigned duties of performing terminal air brake tests for Port Authority Runs No. 100 and No. 200. The Claimant attributed his absence and failure to perform his duties to falling asleep in his personal vehicle. In fact, the Claimant's final statement at the investigation was as follows:

"I am fully aware of the FRA rules and procedures pertaining to the air tests and have no other defense other than lack of rest, which I normally get. I did not wilfully neglect my duties and will accept any decision of this board."

It cannot be seriously contended that by virtue of working the "cat eye" or third shift, that such employees are predisposed to falling asleep while on duty. No matter what time an employee's assignment begins, it is the employee's obligation to report for work, fit and ready to perform his duties for the full eight (8) hours for which he is paid and to accurately report the number of hours when a shift is not completed.

This Board has held that "falsification of a time card standing alone is an offense justifying discipline as severe as dismissal" and that "an employee who absents himself from his duty station without permission" is subject to dismissal. See Second Division Award No. 8971. Moreover, in Second Division Award No. 8886, this Board stated: "It has been consistently held that sleeping while on duty is a dismissable offense."

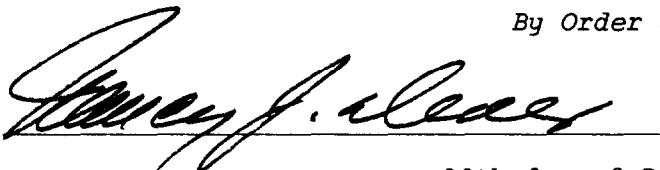
The Board concludes that the penalty assessed against the Claimant is not excessive. Thus, there is no reason to disturb the penalty imposed by the Carrier.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:



Dated at Chicago, Illinois, this 12th day of June 1985.