

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

Parties to Dispute: (International Brotherhood of Electrical Workers
(Consolidated Rail Corporation (Conrail)

Dispute: Claim of Employes:

1. That under the current Agreement, the Consolidated Rail Corporation (Conrail) dismissed Communications Constructionman F. L. Barrett from service effective April 12, 1982.
2. That accordingly, the Consolidated Rail Corporation (Conrail) be ordered to compensate Communications Constructionman F. L. Barrett to service with seniority unimpaired and with all pay due him from the first day he was held out of service until the day he is returned to service, at the applicable Communications Constructionman's rate of pay for each day he has been improperly held from service; and with all benefits due him under the group hospital and life insurance policies for the aforementioned period; and all railroad retirement benefits due him, including unemployment and sickness benefits for the aforementioned period; and all vacation and holiday benefits due him under the current vacation and holiday agreements for the aforementioned period; and all other benefits that would normally have accrued to him had he been working in the aforementioned period in order to make him whole; and expunge his record.

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 was employed by the Carrier as an Electrician at its facility in Hoboken, New Jersey. Following a trial that was held on April 6, 1982, the Claimant was dismissed for excessive absenteeism and being absent without permission in connection with covering his assignment on March 1, 2, 10 and 19, 1982.

The Claimant acknowledged that he was absent from his assignment on March 1, 2, 10 and 19, 1982. He further acknowledged that he did not have permission to be absent from work on those dates. It is undisputed that he failed to report to the Carrier that he would be absent on these dates. Although the Claimant indicated that his absences in March, 1982 were caused by illness, he never produced a doctor's note to substantiate that his illness caused him to be absent.

It has been said that "[T]here is no precise formula expressed in hours, days or percentage that determines excessive absenteeism." Public Law Board No. 1790, Award No. 117. In determining whether the Claimant has been excessively absent, his past record is to be given great weight. During his 2 years of service with the Carrier, the Claimant has received two (2) warning letters, for absenteeism and on two (2) other occasions he has received disciplinary suspensions for absenteeism. The Claimant's record shows that he has been less than diligent in protecting his assignments. Furthermore, the Carrier has demonstrated patience and forbearance in its effort to mend the ways of the Claimant by following the well-established principles of corrective discipline. Clearly, it has been to no avail. The Board is persuaded that in light of the Claimant's record he cannot reasonably be expected to maintain an acceptable attendance record if he is returned to work.

There is also a procedural issue which was raised, however, notwithstanding this procedural matter, the record warrants the conclusion that the Claimant's absences are excessive. Accordingly, the Board finds no reasonable basis to disturb the Carrier's penalty of dismissal.

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 10th day of July 1985.