

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

(International Brotherhood of Firemen and Oilers  
(System Council No. 19

Parties to Dispute:

(  
(The Southern Pacific Transportation Company  
(Western Lines)

Dispute: Claim of Employees:

1. That in violation of the current agreement, Fireman and Oiler A. S. Mata was unjustly dismissed from the service of the Carrier following a formal hearing held on date of July 29, 1981.

2. That accordingly the Carrier be ordered to make the aforementioned A. S. Mata whole by restoring him to Carrier's service with seniority rights unimpaired, plus restoration of all holiday, vacation, health and welfare benefits 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 plus 6% annual interest on all such lost wages.

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 a Laborer at its West Oakland, California, Car Repair facility. He entered the Carrier's service on April 12, 1978. After a hearing was held on July 29, 1981 the Claimant was dismissed for violating Rule 801 of the Carrier's General Rules and Regulations, which provides in relevant part:

"Employees will not be retained in the service who are  
...insubordinate."

The record discloses that the Claimant failed to follow the instructions of Assistant Terminal Superintendent Holsinger to report to the Carrier's property on the morning of Friday, July 10, 1981 to fill out accident reports for his injury which occurred on July 9, 1981. The Claimant filled out such reports on July 20, 1981. The Board concludes that the failure of the Claimant to fill out the reports on July 10 constitutes insubordination. Moreover, his failure to comply with the reasonable instructions of Assistant Terminal Superintendent Holsinger deprived the Carrier of six (6) days of expected work from the Claimant and prevented it from undertaking an immediate investigation of the accident and doctor's reports, which might be submitted to it.

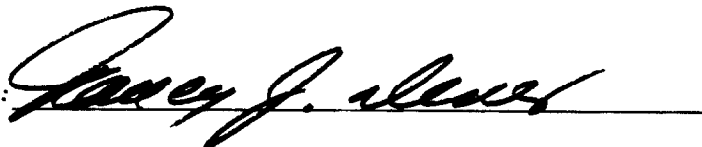
When considering the past record of the Claimant during his three (3) years of service with the Carrier (including dismissal from service for having violated Rule 801 in August, 1980 for engaging in an altercation and displaying a hostile and quarrelsome attitude) and his experiences with four (4) previous personal injuries, as a result of which he was aware of the requirements for reporting of accidents, the Board is of the view that the dismissal of the Claimant from service should not be disturbed.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 4th day of September 1985.