

The Second Division consisted of the regular members and in addition Referee T. Page Sharp when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(Seaboard System Railroad Company

Dispute: Claim of Employees:

1. That under the current and controlling agreement, Service Attendant R. W. Fogle, I. D. No. 111276, was unjustly dismissed from the service of the Seaboard System Railroad on March 8, 1983, after a formal investigation was conducted on February 17, 1983.

2. That accordingly Service Attendant R. W. Fogle be restored to service of the Seaboard System Railroad, Osborn Yards, Louisville, Kentucky, and compensated for all lost time, vacation, health and welfare benefits, hospital, life insurance and dental insurance premiums be paid, effective March 8, 1983, and the payment of 10% interest rate be added thereto.

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 employees involved in this dispute are respectively carrier and employees 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 was a Service Attendant in the service of Carrier on February 17, 1983. On that date an Investigation was held to look into his conduct. He was charged with:

"You are charged with excessive absences and tardiness. During the last four months you have missed eleven days and reported late for work three times as set out below:

October 2 - late	October 31 - off
October 9 - off	November 17 - off
October 13 - off	December 9 - off
October 20 - late	December 16 - off
October 26 - off	January 25 - off
October 27 - off	January 26 - off
October 29 - late	February 1 - off

You have been warned both written and verbally for failure to protect your assignment. You have been allowed to take fifteen days as reprimand in lieu of an investigation in December 1979, and also, discharged for the same offense in March 1980."

Based upon the evidence adduced at the Investigation, the Investigating Officer found that the charges had been proved and based on this finding and the past disciplinary record of Claimant, dismissed him from service.

At the Investigation Claimant exhibited admirable candor when questioned about his attendance pattern. He admitted that for all but four of the incidents he had no worthy reason for his absenteeism. Usually the reasons put forth for his attendance problems were credited to car trouble, wife or child sickness or Marine Reserve meetings. Some were admittedly for insufficient reasons.

It is unfortunate when an employee has a pattern of continued absences or lateness. Some of the reasons advanced by Claimant are legitimate reasons. However, the Carrier expects some satisfactory level of performance from its employees. Absence of an employee either requires a rearrangement of the work force, a blanking of the position, or the calling in of another employee. Each of these contingencies causes, at a minimum, some inconvenience to the Carrier and can cause loss of performance and extra cost. Although these problems occur to the Carrier, equitable consideration for the employee calls for consideration of his problems and some attempt by the Carrier to encourage him to change his patterns.

The Carrier has made diligent attempts to help this Claimant overcome his problems. Claimant admitted at the Investigation that he had been counseled recently on his unsatisfactory attendance. The Carrier has utilized progressive discipline. It has progressed from warnings to suspension to discharge for the same offense. It is obvious to us that none of these attempts has had the sought after effect.

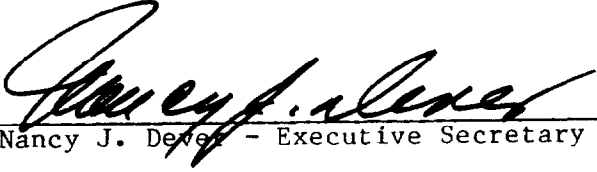
The Carrier has the right at some point in time to make the decision that an employee will not perform to the necessary standard of performance. This will be true even if the employee is cursed with circumstances beyond his control. When it comes to a rational conclusion that an employee cannot do the job, a Carrier is justified in dismissing that employee from its work force. This is the case here. After many unsuccessful attempts to salvage this Claimant, the Carrier is justified in making the final determination that it must dismiss him from employment.

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 5th day of March 1986.