

The Second Division consisted of the regular members and in addition Referee Raymond E. McAlpin when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(National Railroad Passenger Corporation (Amtrak)

Dispute: Claim of Employees:

1. That under the current Agreement the National Railroad Passenger Corporation unjustly suspended Electrician Godfrey Bowen from service ten working days, held in abeyance for six (6) months, effective February 15, 1984.
2. That accordingly the Carrier be ordered to restore Electrician Godfrey Bowen 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 Electrician'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, G. E. Bowen, an Electrician with the Carrier, and in service since February 11, 1976, was given a ten day overhead suspension as a result of an investigation held on February 15, 1984. The Claimant was charged with excessive lateness, specifically, tardiness on the following dates: January 13, January 17, and January 25, 1984.

The Organization argued the Claimant was originally charged with a tardiness which occurred on January 6, 1984. Since the charges were dated February 7, 1984, the charges were more than thirty days from the occurrence, which is a violation of Rule 23, Par. B. Since this barred matter was considered in the verdict, the charges should be dropped. In addition, the Organization notes the Claimant may have been late on the other three occasions, but he was not excessively late. The Claimant has had a good attendance record since 1980, and the penalty is excessive even if the charges were proven. The Organization also argued that the Carrier had not established criteria for excessive tardiness.

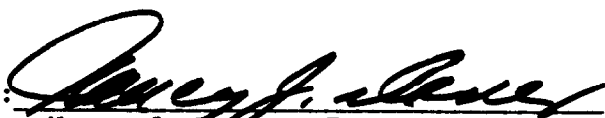
The Carrier argued its investigation was fair and impartial, and the charges were specific. It notes that on page 4 of the Transcript, the Claimant admitted that he was late on the dates in question. This constitutes excessive tardiness and, coupled with the previous record of the Claimant, the discipline was warranted. The Carrier noted it could have held the Claimant out of service on each of the days he was tardy and could have had the Claimant serve an actual suspension rather than an overhead suspension.

Upon complete review of the evidence, the Board finds the investigation conducted by the Carrier to be fair and impartial as required by the Rule, and the charges were specific. The Claimant admitted that he was tardy on the occasions cited. The Board notes the Carrier did not take into account the tardiness which occurred more than thirty days from the formal charges, therefore, no procedural violations occurred. The Board certainly would have liked to have seen more evidence with respect to what the Carrier considers to be excessive. The record does not contain such items. The Claimant's past record with respect to excessive absenteeism and lateness is poor from the period August 17, 1977 through August 18, 1980. There is no information on the record of the Claimant from August 18, 1980 through February 15, 1984, and the Board can only assume that the Claimant did not violate any of the Carrier's attendance policies during that period. The Carrier has the right to expect its employees' regular attendance. Many cases before this Board have shown the detrimental effects of excessive absenteeism on the operations of Carriers. Certainly, the improvement in the attendance of this Claimant for a substantial period of time entered into the Carrier's decision with respect to the appropriate penalty in this case. That penalty, a ten day overhead suspension held in abeyance for a period of six months, is not so arbitrary and capricious that the Board would substitute its judgment for the judgment of the Carrier. Therefore, the claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dyer - Executive Secretary

Dated at Chicago, Illinois, this 19th day of March 1986.