

The Second Division consisted of the regular members and in addition Referee W. J. Peck when award was rendered.

(International Association of Machinists and Aerospace  
( Workers  
Parties to Dispute: (  
(Southern Railway Company

Dispute: Claim of Employees:

1. That the Southern Railway Company violated the controlling Agreement, Rules #30 and 34, but not limited thereto, and were arbitrary, capricious and discriminatory, when they unjustly dismissed Machinist Carlton Richardson, Chattanooga, TN., from service effective August 10, 1984.

2. That accordingly, the Southern Railway Company be ordered to reinstate Machinist Carlton Richardson to service, with pay for all lost time wages, all rights unimpaired and his record cleared of the charge.

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee 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 were given due notice of hearing thereon.

The Claimant in the instant case is a Machinist employed by the Carrier at Carrier's Diesel Repair facilities at Chattanooga, Tennessee.

On date of July 3, 1984, Claimant's General Foreman conducted a preliminary Investigation on Claimant charging him with excessive absenteeism. At the close of the preliminary Investigation the General Foreman advised him that he had been assessed with the penalty of dismissal.

In accord with the Agreement the Local Chairman wrote Carrier contending that the dismissal was an excessive penalty and requested a Formal Investigation. The Formal Investigation was held August 3, 1984. After conclusion of the Formal Investigation the Carrier advised Claimant that the dismissal penalty had been upheld.

The work record of the Claimant as brought out during the Investigation shows that: Claimant was late, absent or left early on the following days, June 7, 1984, late - June 9, 1984, absent - June 12, 1984, absent - June 13, 1984, late - June 15, 1984, late and left early - June 20, 1984, late - June 22, 1984, absent - June 23, 1984, absent - June 29, 1984, late - June 30, 1984, absent.

There are seven other employees at the Fuel Rack and comparing Claimant's record with these seven other employees shows that Claimant was either absent, late or quit early 2.69 times as much as all seven of these other employees together.

Claimant's past discipline record shows the following:

11/17/81 - Suspended 10 Days  
4 /29/82 - Suspended 21 Days  
4 /30/82 - Suspended 15 Days  
8 /14/82 - Reprimand  
10/ 6/82 - Suspended 30 Days.

Claimant does have some problems but we do not see anything that could justify so much absenteeism.

The Organization contended that the Carrier's assessment of dismissal was arbitrary, capricious and discriminatory towards the Claimant. We do not agree. It appears to us that Carrier has shown a great deal of patience.

Considering all of the facts in this case we find that the Carrier has met its burden of proof.

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 1st day of October 1986.