

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: (
(Seaboard System Railroad

Dispute: Claim of Employees:

1. That the Seaboard System Railroad violated the controlling agreement when it unjustly placed a letter of caution on the record of Machinist L. F. Brigman July 9, 1984 following an investigation held on May 30, 1984.

2. That accordingly, the Seaboard System Railroad be ordered to remove all reference to the charges, investigation and subsequent discipline letter from Machinist Brigman's personal 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 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 waived right of appearance at hearing thereon.

The Claimant in the instant case is a Machinist employed by the Carrier at Carrier's diesel repair facility at Waycross, Georgia.

On date of May 16, 1984, Carrier sent the following notice to the Claimant:

"An investigation will be held in the Office of
Shop Superintendent with you as principal at
9:30 A.M., May 22, 1984.

You are being charged with violating Rule 7 of the Seaboard System Railroad Rules and Regulations for the Mechanical Department for having excessive and chronic absenteeism and failure to provide sufficient medical justification for your absence from June 2, 1983 through May 13, 1984.

You are directed to attend this investigation.

You may be represented by a duly authorized representative of the Machinist's Craft and you may arrange to have any witnesses who have knowledge of the matter under investigation. At this investigation a review of your service record will be made."

Because of other commitments the Investigation was postponed and then held on date of May 30, 1984.

On date of July 9, 1984 Carrier sent a transmittal to the Claimant which contained the following paragraph:

"While it is well documented that you have lost an excessive amount of time, and on a number of occasions failed to provide our Medical Department with sufficient justification for these extended absences, we have no alternative but to caution you that continued absences on your part will not be tolerated in the future. It must be clearly understood, as brought out in our conference that you have a contractual obligation with this company and that you will be expected to fulfill that obligation. It has long been recognized by the Labor Adjustment Board, as well as the management of this company, that chronic and excessive absenteeism, for whatever cause, can be grounds for discipline and/or dismissal."

The Organization, in their submission, cites no rule or provision that was violated. This Board cannot make any ruling that the Agreement either was or was not violated when absolutely nothing in the Agreement is even mentioned. No penalty was assessed, simply a warning that the individual must be more careful. We must dismiss this case as being improperly before this Board.

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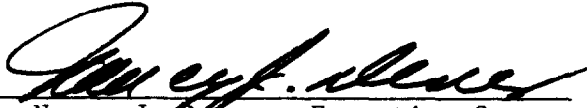
Award No. 11013
Docket No. 11116
2-SSR-MA-'86

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 1st day of October 1986.