

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(Southern Pacific Transportation Company

Dispute: Claim of Employee:

1. Under the current Agreement, Mechanical Department Electrician T. M. Ash was unjustly treated when she was dismissed from service on February 14, 1985, following investigation for alleged violation of portions of Rule 801 and Rule 810 of the General Rules and Regulations of the Southern Pacific Transportation Company (Western Lines). Said alleged violation occurring on September 17, 1984.

2. Accordingly, the Southern Pacific Transportation Company (Western Lines) be ordered to restore Electrician T. M. Ash to service with all rights unimpaired, including service and seniority, vacation, payment of hospital and medical insurance, group disability insurance, railroad retirement contributions, and loss of wages including interest at the rate of 10 percent per annum.

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 herein is the same as involved in Award No. 11177. The record shows that on September 11, 1984, Claimant completed her apprenticeship as an Electrician.

On September 18, 1984, about 7:15 A.M., Claimant called a Clerk in Carrier's Tower at Los Angeles Yard, and reported to the Clerk to lay her (Claimant) off for personal business on an indefinite basis. On September 17, 1984, a Representative of the Organization submitted a request for leave of absence for the Claimant for the period September 18, 1984, to October 16, 1984 "account having problem getting school and baby sitter for baby." The request for leave of absence submitted by the Local Chairman on behalf of Claimant was denied by Carrier's Plant Manager on September 18, 1984.

The Claimant had not performed work for the Carrier after September 11, 1984, and had not reported for work on any subsequent days. Inquiry by the Carrier developed that Claimant had enrolled as a full-time student at Chaffey College on September 13, 1984. On October 16, 1984, Claimant was notified by letter from Carrier's Plant Manager, which letter was sent to Claimant's address of record Certified mail:

"You are hereby notified to be present at office of Plant Manager, Los Angeles Locomotive Maintenance Plant, 2050 Kerr Street, Los Angeles, California, at 9:00 AM, November 20, 1984, for a formal hearing to develop the facts and place responsibility, if any, in connection with your alleged dishonesty on September 17, 1984, when you requested a leave of absence to take care of personal family matters regarding a school and babysitter for your children; also in connection with your alleged absence from your duties as an Electrician since September 18, 1984, allegedly without proper authority. In connection with this matter you are charged with responsibility which may involve violation of the following quoted portions of Rule 801 and 810 of the General Rules and Regulations of Southern Pacific Transportation Company reading:

Rule 801 - 'Employees will not be retained in the service who are dishonest.'

Rule 810 - 'Employees must report for duty at the prescribed time and place. They must not absence themselves from their employment without Proper authority. They must not engage in other business which interferes with their performance of service...Continued failure by employees to protect their employment shall be sufficient cause for dismissal.'

You are entitled to representation in accordance with Mechanical Department Agreement, and you may bring to the hearing such witnesses as you may desire. Please acknowledge receipt of this letter on copy attached and return it to this office."

Further letter dated December 11, 1984, was addressed to the Claimant to the effect that the Hearing was rescheduled for 9:00 A.M., January 15, 1985. On January 14, 1985, Claimant addressed the following letter to Carrier's Plant Manager:

"I have been informed by my Electrician Representative of the charges brought against me by the Southern Pacific Transportation Company. While I am unable to attend the January 15th hearing, I would like to address the charge of alleged dishonesty in my request of a leave of absence.

The reasons for my request for leave of absence are the same now as they were on September 17, 1984. I was about to complete my apprenticeship which meant that I would be involved in a shift and rest day change because of my seniority date. This would mean new babysitting arrangements which working mothers everywhere know of the difficulty. Additionally, I had planned on attending school and I had no formal schedule at that time.

I feel that Southern Pacific Transportation Company has taken unusual steps in attempting to resolve this matter. I feel that I have been unduly harassed in the manner that management in Los Angeles has investigated my absence. I feel that I have been discriminated upon by Mr. J. B. Harstad, Plant Manager, and the Southern Pacific Transportation Company by not being granted a leave of absence for my very legitimate reasons while other male employees are granted same as a common occurrence."

While Claimant stated that she would not be able to attend the January 15, 1985, Hearing, she did not request a postponement of the Hearing, or state when she would be able to attend. The Hearing was conducted on January 15, 1985, as scheduled. Claimant was not present but was represented. We do not consider Claimant's letter of January 14, 1985, as a proper substitute for attendance at the Hearing, where she would be subject to questioning by the Conducting Officer, and possibly Organization Representatives. Following the Investigation, Claimant was notified of her dismissal from service on February 24, 1985.

In the Investigation it was developed that Claimant had enrolled as a full-time student at Chaffey College on September 13, 1984, prior to requesting a leave of absence; that the reasons stated for the leave of absence were not factual; and that Claimant had been absent from work without authority from September 18, 1984, and had been attending college on a full-time basis. Claimant's dismissal from service was fully warranted; was not arbitrary, capricious or in bad faith. Claimant was in violation of the Rules cited in the letter of charge. The Claim will be denied. As stated in Second Division Award No. 6710:

"Every employe has an obligation and a duty to report on time and work his scheduled hours, unless he has good and sufficient reason to be late, to be absent, or to leave early. These reasons must be supported by competent and acceptable evidence. No employe may report when he likes or choose when to work. No railroad can be efficiently operated for long if voluntary absences are condoned."

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 25th day of February 1987.