

The Second Division consisted of the regular members and in addition Referee Thomas F. Carey when award was rendered.

PARTIES TO DISPUTE: ((International Brotherhood of Electrical Workers
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

1. Appeal of dismissal from service of Collingwood Diesel Electrician John J. Lawshea by the Consolidated Rail Corporation.

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 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 signed off from duty as a Diesel Electrician at Collingwood, Ohio, on January 22, 23, 24, and 27, 1986. On January 29, 1986, the Claimant submitted a doctor's note to his Supervisor, signed by a Dr. Lois J. Geist of the University Hospitals of Cleveland. This note stated that John Lawshea, ". . . was seen by our doctors on 1/23/86, and has been advised that he/she may return to work on 1/28/86."

In making a random check of employes with a history of absenteeism, the Shop Superintendent noticed that the Claimant had three doctor's slips from a Dr. Lois Geist of University Hospitals in his folder. He brought this to the attention of the Shop Manager and directed him to verify the 1/29/86 slip with the Hospital. The Shop Manager did so, and learned that no record existed to document that the Claimant had ever been treated at the Hospital or examined by Dr. Geist on any date. The Shop Superintendent then made an appointment with Dr. Geist to show her the note. Upon examination of the slip, she stated that the signature appeared to be hers but that she had not treated the Claimant at any time in January of 1986. She agreed to sign a statement to that effect for the Carrier.

As a result of its investigation of the incident, the Carrier charged the Claimant with following:

"Falsification of slip from Dr. Lois J. Geist dated January 28, 1986, for return to duty from alleged illness on January 22, 23, 24, and 27, 1986."

Following his Trial on the above mentioned charge, the Claimant was found guilty and was "dismissed in all capacities."

The Claimant is a sixteen-year employee of the Carrier, with a lengthy history of disciplinary infractions dating back to 1974. Most of the charges against him involved excessive absenteeism, and several of the charges culminated in lengthy suspensions. These past incidents have no direct bearing on the instant case, but the Board notes that they do suggest a pattern of workplace behavior.

At the Hearing, the Claimant introduced no new exhibits to reinforce his claim that he was treated at University Hospitals by a Dr. Geist on the date in question. Further, although he had testified at his Trial that he had not been treated by a "woman doctor," he presented no new evidence as to who did treat him. He also offered no explanation as to why the Hospital would have no record of any doctor ever having treated him on any date.

Based on the record before us, the Board must therefore find that the Claimant is guilty as charged. As to the appropriateness of the discipline of dismissal, this Board is not empowered to entertain that issue. It is the sole prerogative of the Carrier to grant leniency, and we refer that request to them.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 20th day of January 1988.