

The Second Division consisted of the regular members and in addition Referee Ronald L. Miller when award was rendered.

PARTIES TO DISPUTE: (Sheet Metal Workers' International Association  
(CSX Transportation, Inc. (formerly Seaboard System Railroad)

STATEMENT OF CLAIM:

1. Sheet Metal Worker W. J. Peterson was unjustly assessed five (5) days suspension.
2. That the Carrier be ordered to pay Sheet Metal Worker Peterson five (5) days pay at pro rata rate of pay.

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 suffered an injury to his left hip while on duty on June 2, 1985. He was examined at an area hospital and released. Prior to the start of his regular night shift assignment, the Claimant called the Carrier at approximately 11:30 p.m. on June 2, 1985 to report that he was still experiencing pain, that he would not report for work, and that he was going to see a personal doctor the next morning. The foreman who spoke with the Claimant that night testified that "... I asked Mr. Peterson that he see Mr. C. E. Hendrix the following morning and he would have him a doctor's appointment made and assist him with it."

The next morning, June 3, 1985, Claimant saw his personal doctor, and was subsequently hospitalized for a week. He did not see nor attempt to contact his Supervisor on June 3, 1985. The Carrier disciplined the Claimant with a five (5) days suspension for being absent without permission on June 2, 1985, chronic/excessive absenteeism, and insubordination.

Contrary to the Carrier's contention, the record of this case clearly indicates that the Foreman gave Claimant permission to be absent from work on

June 2, 1985. As for the charge of chronic/excessive absenteeism, the time period includes the days when the Claimant was undergoing treatment, including hospitalization. Although Claimant did not have specific permission to be absent from work, the Carrier knew about his condition and hospitalization, and did not subsequently direct Claimant to be examined by a Carrier doctor. For his part, Claimant could have and should have kept the Carrier informed about his medical condition and treatment.

As for the central issue of this case ... insubordination ... Claimant failed to comply with the reasonable instructions given by the Foreman that he contact his Supervisor during the morning of June 3, 1985. Claimant testified that he understood the instructions given by the Foreman. Claimant made no attempt on June 3, 1985, or anytime thereafter, to contact his Supervisor. Claimant disregarded the Foreman's reasonable instruction, even though there was opportunity to comply. Claimant was insubordinate.

The record of this case indicates that Claimant was afforded a fair and impartial investigation.

Under the circumstances the five (5) days disciplinary suspension shall be reduced to three (3) days. Claimant shall be made whole for lost wages for two (2) days.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1988.