

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
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(CSX Transportation, Inc. (SCL)

STATEMENT OF CLAIM:

1. That the CSX Transportation, Inc. (SCL) violated the controlling Agreement, in particular Rules 18(b) and 19, when Electrician E. F. Ussery ID No. 1676478, was unjustly disciplined as a result of formal investigation held October 1, 1985, at Waycross, GA.

2. That accordingly the CSX Transportation, Inc. (SCL) compensate Electrician C. F. Ussery, in the amount of eight (8) hours per day at the pro rata rate of five (5) days actually served and remove the remaining five (5) days held in abeyance for period of six (6) months if and when Carrier applies additional discipline.

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.

During 1985, the Carrier's Waycross, Georgia, facility was plagued with chronic absenteeism among its Shop employees. The Shop Superintendent met with the Assistant Shop Superintendents, the General Foreman, and the Local Chairmen to emphasize the importance of maintaining an adequate workforce to meet the Carrier's operational requirements. These Foreman, in turn, each met with the employees under their supervision for the purpose of conveying the seriousness of the problem and the urgency with which it must be addressed.

Following these meetings, the Shop Superintendent instituted procedures requiring department heads to make daily reports on absenteeism and production, and to compile a weekly report indicating those employees who had been absent four or more continuous days during that week. The department

heads were then to contact these individuals absent four or more days to determine their status and their anticipated date of return. If these employees were expected to be on extended absence, the department head was to maintain periodic contact in order to be apprised of an individual's status and to be better able to adjust work schedules at the Shop.

On April 27, 1985, the Claimant reported to his Supervisor that he had sustained an off-duty injury, and wished to mark off and go to the hospital for medical attention. Over the next several months, the Claimant had several brief telephone conversations with the Carrier, but failed to provide any justifiable reason for his continued absence from his assigned duties. On August 8, 1985, the Claimant was directed by letter from the Carrier to furnish medical information from his doctor within five days detailing his diagnosis, prognosis, and expected date of return. However, he failed to do so. As a result, the Claimant was charged with the following violations:

"Rule 7...which reads, 'Employees must not absent themselves from their duties without permission from the proper authority. Repeated and chronic absenteeism will subject an employee to investigation and possible discipline. Claims of sickness under false pretenses are recognized as being absent without permission.' Rule 1 ... pertaining to hours of service; that portion of Rule 3 ... pertaining to insubordination ... and also Rule 5 ... which reads, 'Employees must be at their respective work locations and ready to begin work at the beginning of their bulletined assignment unless excused by proper authority.'"

On October 22, 1985, the Claimant was notified by letter from the Carrier that he had been found guilty of the following charges: insubordination, in failing to provide justification for his continuing absence as directed by his Supervisor; chronic and excessive absenteeism from April 27, 1985, to present; and, being absent without permission from August 14, 1985, to present. He was advised that he was being assessed 10 days actual suspension, with only 5 days actually invoked, and the remaining 5 days held in abeyance for 6 months pending approval of his attendance. This measure of discipline was later appealed, but due to the seriousness of the charges brought against the Claimant, the Carrier refused to reduce the penalty.

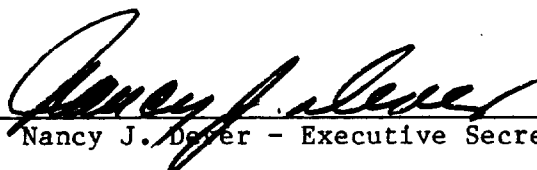
The nature of the employment relationship demands that employees keep their employers apprised of their availability for work, and that employees do not seek to unilaterally determine their own schedules (see Second Division Award 8238). Further, though an employee's absence(s) may be justifiable, it remains the right of the employer to determine if the employee is able to perform at the necessary level, given the extenuating circumstances (see Second Division Award 10769). If an employer determines that a pattern of chronic absenteeism over a period of time is unacceptable, it need not be tolerated, even if the employee provided documentation for the entire period.

In the case before the Board, sufficient evidence was presented to attest to the failure of the Claimant to provide the Carrier with the requested medical documentation of his lengthy absence. The Carrier at no time had specific knowledge of the extent of the Claimant's injury or illness, nor his expected date of return to work. It is not unreasonable for the Carrier to expect employees to be familiar with work rules, and to comply with the Carrier's requests issued under them. The Board, therefore, finds no mitigating circumstances in this case that would prompt it to reduce the imposed discipline.

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 22nd day of March 1989.