

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11873
Docket No. 11766
90-2-89-2-84

The Second Division consisted of the regular members and in addition Referee Joseph S. Cannavo, Jr. when award was rendered.

PARTIES TO DISPUTE: ((International Brotherhood of Electrical Workers
(Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM:

1. That under the current Agreement, Mechanical Department Electrician M. G. McGee was unjustly treated when he was dismissed from service on August 15, 1988, following investigation for alleged violation of portion of Rule 810 of the General Rules and Regulations of the Southern Pacific Transportation Company (Western Lines).

2. That accordingly, the Southern Pacific Transportation Company be ordered to restore Electrician M. G. McGee 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 ten per cent (10%) 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 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 was dismissed from service on August 15, 1988. Prior to this dismissal, Claimant was notified of formal Hearing to be held on June 7, 1988, to investigate charges that he failed to report for duty on seventeen (17) occasions between January 18 and June 29, 1988. At the request of the Organization, the Hearing was postponed until June 24, 1988. On June 24,

1988, a revised formal Hearing notice was issued adding an additional thirty-eight (38) days that Claimant did not protect his employment. The formal Hearing was rescheduled for July 15, 1988. Claimant did not attend the formal Hearing held on July 15, 1988. At the Hearing, the Carrier established a prima facie case that it had just cause to dismiss the Claimant when it introduced into evidence the Claimant's attendance record. This record established that the Claimant failed to protect his employment on fifty-five days between January 18 thru June 23, 1988, in violation of Company Rule 810. The record is devoid of any direct testimony explaining the reasons for the absences, or why the Claimant failed to grieve the alleged denial of his request for a leave of absence.


On the basis of the Claimant's failure to participate at the formal Investigation, no mitigating evidence is available for this Board to consider. Consequently, the Hearing Officer's determination is adopted by the Board.

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 6th day of June 1990.