

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 K. L. Stevenson was unjustly treated when he was suspended from service for thirty (30) days beginning September 10, 1988 through and including October 9, 1988, following investigation for alleged violation of portions of Rules "A", "G", 604, 605, 607 and 1261 of the General Rules and Regulations of the Southern Pacific Transportation Company (Western Lines). Said alleged violations occurring on June 16, 1988 through and including June 20, 1988.

2. That accordingly, the Southern Pacific Transportation Company be ordered to compensate Electrician K. L. Stevenson for thirty (30) days loss of wages at the straight time pro-rata rate beginning September 10, 1988 through and including October 9, 1988.

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 waived right of appearance at hearing thereon.

As a result of a formal Hearing held on August 5, 1988, the Claimant was issued a thirty (30) day suspension. The Claimant was charged with miswiring an Electrician motor on an air compressor, failing to respond to an emergency call in conjunction with a derailment, failure to report for duty and alleged use of prescribed medication without proper clearance from the medical department. Claimant was charged with violations of portions of Rules A, G, 604, 605, 607 and 1261 of the General Rules and Regulations of the Carrier.

The Board's review of the record indicates that the Carrier did not address the alleged violation of Rule 605 which requires employees subject to call to advise where they can be reached. A further review of the evidence establishes that the Carrier did not meet its burden of proof that Claimant was negligent, as charged. Claimant had the assistance of another Electrician and his Supervisor. The testimony of the Supervisor failed to identify specific negligent conduct. The mere fact that the assignment was not successful is not, ipso facto, indicia of negligence.

The Hearing Officer's remaining findings, based on credibility resolutions, will not be disturbed by this Board. The credibility resolutions of the Hearing Officer were based on the weight of the evidence; the weight of that evidence did not establish that the Claimant informed his Supervisors that he suffered from an illness, which illness the Claimant allegedly relied upon to justify his refusal to report to a derailment and to report to work the next day. Thus, the Claimant's assertions that he refused to work because of safety reasons were not substantiated.

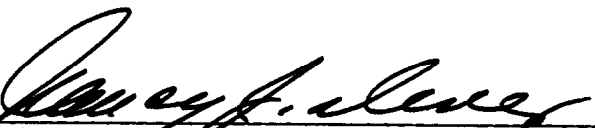
Based on the foregoing, the thirty (30) day suspension shall be reduced to a fifteen (15) day suspension. The Claimant shall be made whole for all lost wages and benefits incurred during the remaining fifteen (15) days.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 6th day of June 1990.