

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11940
Docket No. 11695
90-2-89-2-2

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

1. That the Carrier violated Rule 37 of the Schedule of Rules when it unjustly dismissed Claimant from service February 25, 1988.
2. That Claimant should be returned to service of the Carrier with all rights unimpaired.
3. That Claimant should be compensated for each work day lost from the date he was dismissed to the date he is returned to service, including any overtime that would have been available during this period.
4. That all Agreement rights be restored including insurance premiums.

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.

Claimant was employed by the Carrier as an Electrician at its Salt Lake Diesel facility at Salt Lake City, Utah.

On February 4, 1988, the Carrier notified the Claimant to appear for a formal Investigation in connection with the following charges:

". . . that you failed to protect your assignment on the following dates when you were absent or reported for work late without authority . . . November 29, 1987; November 30, 1987; December 6, 1987; December 7, 1987; December 12, 1987; December 13, 1987; December 14, 1987; December 20, 1987; December 21, 1987; December 27, 1987; December 28, 1987; January 2, 1988; January 6, 1988; January 13, 1988; January 16, 1988; January 19, 1988; January 20, 1988; January 23, 1988; January 26, 1988; January 27, 1988; January 30, 1988; February 1, 1988 . . . This is in violation of Rules B and 604 of Form 7908."

The Hearing took place on February 18, 1988. On February 25, 1988, the Carrier notified the Claimant that he had been found guilty of the charges and was assessed discipline of dismissal effective immediately. Thereafter, the Organization filed a Claim on Claimant's behalf challenging his dismissal.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of failing to protect his assignment when he was absent or reported late without authority on twenty-two occasions between November 29, 1987, and February 2, 1988. The record is clear that that type of behavior was in violation of Carrier Rules B and 604.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

In the case at hand, the Claimant had been progressively disciplined regarding his attendance. However, he continued to not show up for work when he was expected. Therefore, the Carrier had every right to terminate his employment.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dexer Executive Secretary

Dated at Chicago, Illinois, this 28th day of November 1990.