

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  
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM:

1. That the Atchison Topeka & Santa Fe Railway Company erred and violated the contractual rights of Mr. Manuel Preciado when they assessed his personal record thirty (30) demerits which directly led to his dismissal as a result of an investigation held on April 8, 1987.

2. That the investigation was neither fair nor impartial.

3. That therefore the discipline of thirty (30) demerits be removed from his record, and,

4. That the record of investigation and all other references to this investigation be removed from his record.

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 were given due notice of hearing thereon.

Claimant was employed by the Carrier as an Electrician at its San Bernardino Shops in San Bernardino, California.

On March 26, 1987, the Carrier notified the Claimant to appear for a formal Investigation in connection with the following charge:

" . . . your alleged failure to secure formal authorized leave of absence (Form 1516 Standard) from February 24, 1987, to March 25, 1987, possible violation of Rule 13 (paragraph 2), Form 2626 Standard, General Rules for the Guidance of Employees 1978 edition, so as to develop the facts and place responsibility, if any, involving possible violation of the above rule."

The Hearing took place on April 8, 1987. On April 15, 1987, the Carrier notified the Claimant that he had been found guilty of the charge and was assessed 30 demerits against his personal record. The Claimant was also advised that his record now stood at 75 demerits, which subjected him to dismissal. The Organization thereafter filed a Claim on Claimant's behalf, challenging his discipline.

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 secure formal authorized leave of absence for the period from February 24, 1987 to March 25, 1987. The record reveals that the Claimant was on a leave of absence prior to February 24, 1987, and he did not seek an extension of that leave until March 30, 1987. Although the record also reveals that the Claimant was under extremely stressful circumstances during that period, the Rules require that he renew his leave of absence in order to not be considered AWOL. The record also reveals that the Claimant had obtained several leaves of absence in previous years and was fully aware of his obligations under the Rules.

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.

For his infraction in this case, the Claimant received thirty demerits. Given his previous work history and the nature of this infraction, we cannot find that thirty demerits is unreasonable, arbitrary, or capricious. Therefore, the Claim will be denied.

A W A R D

Claim denied.

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Award No. 11973  
Docket No. 11709  
91-2-88-2-201

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:   
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 16th day of January 1991.