

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 removed him from service on May 8, 1987 as a result of an investigation held on April 30, 1987.

2. That the investigation was neither fair nor impartial.

3. That therefore he be returned to service with seniority and all other rights, benefits and privileges restored, and

4. That he be compensated for all lost time including overtime and holiday pay, and,

5. That he be made whole for health and welfare benefits, and,

6. That he be made whole for all vacation rights, and,

7. That he be made whole for pension benefits, unemployment and sickness insurance, and,

8. That he be made whole for any and all benefits not specifically mentioned herein, that he would have received or would have earned had he not been withheld from service.

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 April 16, 1987, the Carrier notified the Claimant to attend a formal Investigation in connection with the following charge:

" . . . to develop the facts and place responsibility, if any, concerning your alleged accumulation of 75 demerits as of April 15, 1987, possible violation of Rule 31 (paragraph H), Form 2626 Standard General Rules for the Guidance of Employees, 1978 edition."

The Hearing was held on April 30, 1987; and on May 8, 1987, the Carrier notified the Claimant that he had been found guilty of the charge brought against him and was assessed discipline of removal from service effective immediately. 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 having accumulated more than sixty demerits for previous disciplinary infractions. The record reveals that the Carrier has a Rule 31, Paragraph H which states in part:

"A balance of sixty demerits subjects an employee to dismissal."

There is no question that this Claimant had received a total of 75 demerits. Therefore, under its Rules, the Carrier decided to terminate the Claimant's employment.

This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious. The record reveals that this Claimant, although having received several disciplinary actions over the previous months and numerous demerits, continued to refuse or fail to improve his performance. We cannot find that the Carrier's action in dismissing the Claimant for excess accumulation of demerits was unreasonable, arbitrary, or capricious. Therefore, the Claim must be denied.

A W A R D

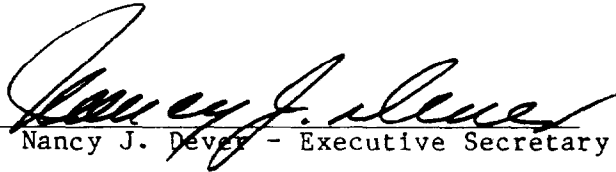
Claim denied.

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Award No. 11974
Docket No. 11710
91-2-88-2-202

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.