

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

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

STATEMENT OF CLAIM:

1. That the Missouri Pacific Railroad Company is violative of Rule 32 of the June 1, 1960 controlling agreement and has unjustly dealt with and damaged Electrician D. D. Compton at DeSoto, Missouri when they did not afford him a fair and impartial investigation and assessed discipline of a thirty (30) day deferred suspension by letter dated April 25, 1988(sic), should be April 25, 1989.

2. That accordingly the Missouri Pacific Railroad Company be ordered to reverse in its entirety the discipline of thirty (30) days deferred suspension assessed Mr. Compton by letter dated April 25, 1988(sic), should be April 25, 1989, and completely clear Mr. Compton's personal record of this discipline, investigation and all matters related.

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 an Investigation held on April 20, 1989, the Claimant was assessed with a thirty (30) day deferred suspension. The Claimant was found to have violated Rule 17 of the Agreement which provides as follows:

"Employees shall not lay off without first obtaining permission from their foreman to do so, except in cases of sickness or other good cause of which the foreman shall be promptly advised."

Initially, the Organization raises certain procedural objections which this Board rejects. Regarding the Organization's allegation that the Claimant did not receive a fair and impartial hearing, this Board has held on numerous occasions that it is not improper for the same official of the Carrier to sign the notice of the charges against the Claimant, to conduct the

hearing, to read the Claimant's previous disciplinary history into the record and to sign the notice of the Claimant's discipline. The Board also rejects the Organization's allegation that the Carrier allowed the Claimant to do work in excess of eight months prior to pursuing the Investigation scheduled in the original notice dated May 20, 1988. The record clearly establishes that the Carrier was accommodating the Claimant. Further, the Organization did not substantiate its claim that the Carrier issued the notice of Investigation after eight months in retribution for an injury suffered by the Claimant. The Organization failed to show that the Carrier violated Rule 32 and it therefore did not establish that the Claimant did not have ample time to prepare his defense. Additionally, this Board rejects all other procedural objections raised by the Organization and finds that the Claimant was afforded Agreement due process.

The Board also finds that the Carrier met its burden of proof in establishing that the Claimant was in violation of Rule 17. The Claimant's records, on its face, establishes that the Claimant did not first obtain permission from his foreman to lay off and that he did not advise his foreman promptly of pending absences. This Board has ruled on numerous occasions upholding a Carrier's right to discipline employees who have absented themselves from duty without proper authority. Further, in assessing whether the discipline was commensurate with the offense, the Board has also held that the Carrier has an absolute right to consider the Claimant's entire record. This Claimant's record is replete with counselings, letters of reprimand and letters to his file. Consequently, the Board agrees with the finding of the hearing officer as to the discipline assessed.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Devet - Executive Secretary

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