

The Second Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

PARTIES TO DISPUTE: (Sheet Metal Workers International Association  
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(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. The Carrier violated the provisions of the current controlling agreement when they improperly suspended Sheet Metal Worker L. M. Bair from the service of the Burlington Northern commencing August 12, 1989 and continuing through and including September 10, 1989, a period of thirty (30) days as a result of an investigation held on July 14, 1989.

2. That accordingly, the Carrier be required to compensate Mr. Bair for all time lost in addition to the amount of 6% per annum compounded annually; remove impairment of his seniority, if any; make Mr. Bair whole for all vacation rights; reimburse Mr. Bair and his dependents for all medical and dental expenses incurred while he was improperly held out of service; pay Mr. Bair's estate whatever benefits he has accrued with regard to life insurance for all time he was improperly held out of service; pay Mr. Bair for all contractual holidays; pay Mr. Bair for all jury duty and other contractual benefits to which he is entitled.

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.

Claimant was charged with failure to report for duty on June 30, 1989 and failure to comply with instructions from proper authority to properly absent himself from duty on that date. At a Hearing on July 14, 1989 Claimant testified that he had no telephone at his residence, and had taken a pain-killer for a toothache and could not safely drive to another location to notify the Carrier about his absence. Claimant was subsequently found guilty as charged and assessed the penalty of a 30-day suspension.

The Organization contends that a Union Representative should have been present when Claimant's Supervisor questioned him about the absence on the day he returned to work. It is clear from the record, however, that Claimant made no request for such Representation.

It also objects that the Shop Superintendent's Notice of January 17, 1989, requiring employees to telephone in advance to request authority to be late or absent, was not bargained for with the Organization and is in conflict with Rule 16 of the Agreement, which requires only that employees give notice "as early as possible." We find no such conflict. The Superintendent's Notice is a reasonable supplement to Rule 16 intended to enable the Carrier to secure timely replacements for absent employees. This Board has consistently held that the Carrier has the right to unilaterally establish such general Rules of conduct when they do not contravene the terms of the Agreement, and employees who do not comply with such standards are subject to discipline.

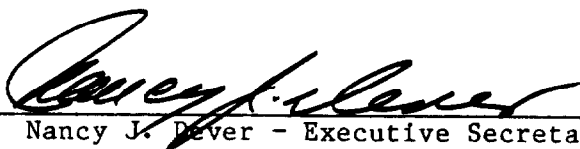
The Board finds that there was substantive evidence that Claimant was guilty as charged and that he received a fair and impartial Hearing. He should have known when he took the pain-killers that it was highly unlikely that he would be able to drive an automobile. Given the Claimant's recent prior record of discipline for the same offense, we find no basis for disturbing the Carrier's disposition of this matter.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 15th day of January 1992.