

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Form 1

Award No. 12563  
Docket No. 11983  
93-2-90-2-87

The Second Division consisted of the regular members and in addition Referee Robert O. Harris when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists and  
(Aerospace Workers  
(Illinois Central Railroad

STATEMENT OF CLAIM:

"That the Illinois Central Railroad violated the current and controlling Agreement between the International Association of Machinists and the Illinois Central Railroad dated April 1, 1935, as subsequently revised and amended, when it harshly and unjustly dismissed Machinist A. J. Miller on March 8, 1990, for allegedly being absent without proper authority on February 13, 1990.

That the Illinois Central Railroad reinstate Machinist A. J. Miller to service, make him whole for any and all losses incurred as result of the investigation conducted on February 28, 1990, and clear his service record of all reference to the incident."

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 employe 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, who had a long history of poor attendance, was reinstated to his job after discharge for poor attendance on December 28, 1989. On February 13, 1990, he called his supervisor after the beginning of his shift and stated that he had an

emergency, although he never specified what it was. Nonetheless, permission was not granted.

Claimant did not testify at the Hearing and the Board is limited in its review of the record. There is nothing to indicate that Claimant was treated any differently than any other employee and the absence clearly occurred. The Organization claimed that the Carrier abused its authority; however, this Board was not created to substitute its judgment for that of the Carrier. The record indicates that progressive discipline has been attempted as a method of correcting Claimant's attendance problem, but that did not work. Accordingly, Carrier's discharge of Claimant must be upheld.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Catherine Loughrin  
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 8th day of September 1993.