

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12615
Docket No. 12550
93-2-92-2-72

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

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

STATEMENT OF CLAIM:

- "1. (a) Did the Carrier prove by substantial evidence that Electrician G. L. Strachan was insubordinate when on March 19, 1991, he failed to comply with his supervisor's instructions to submit to a random drug test in violation of Carrier Rules A, B, 600, and 607(3) of Form 7908, and the Union Pacific Railroad Drug and Alcohol Policy effective January 6, 1990?
(b) Did the Carrier further prove that the claimant was absent without proper authority at 5:35 a.m. on March 19, 1991, in violation of General Rules A, B, and 604 of Form 7908?
2. If the answer to the first question is yes, was the Carrier's assessment of discipline rendered arbitrarily, capriciously, or did it constitute an abuse of discretion?"

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.

The Board, after careful review of the lengthy record developed in this case, must make several observations with respect to this record before addressing the merits.

First, both parties have advanced this claim under separate Dockets to this Board (See Second Division Award 12617). While either party may progress matters to the Board, there is no useful purpose for both parties to do so. We recommend that the parties follow the normal practice in this respect. Duplication of a claim makes extra work for this Board, reviewing parties and adds to the expense of the appeals process.

Second, both parties to this dispute have provided a copy of the transcript of the hearing held on this matter. Such duplication is not necessary. It causes considerably more work for the Board and all of those involved in the review process. The Board cannot and will not interfere with the parties' methods for processing disputes while on the property and clearly will not impose undue restrictions on materials which the parties provide to the Board. However, in this situation, the Board has a proper advisory role and in light of this, we urge these parties to follow the procedure commonly accepted in this industry, namely, that only one party provide a copy of the transcript to the Board. As a matter of information, that role is usually filled by the Carrier.

Third, we have carefully reviewed the many procedural matters that have been progressed by the parties. We conclude, on the basis of this review, that the claim is best decided on its merits.

With respect to the merits, the evidence shows--much of it from the Claimant's own testimony adduced at the hearing held on his claim--that the Carrier met its burden of proof required in such matters as this. Simply stated, the Claimant was subject to a random drug test. He refused to take the test and left the property. The Claimant's assertion that the reason he left the property was to keep a doctor's appointment is not supported by the evidence.

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 17th day of November 1993.