

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12758
Docket No. 12590
94-2-92-2-142

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: ((International Brotherhood of
(Electrical Workers
(Southern Pacific Transportation Company
((Western Lines)

STATEMENT OF CLAIM:

- "1. That under the current Agreement, Mechanical Department Electrician P.R. Hug was unjustly treated when he was suspended from service for a period of thirteen (13) days beginning November 25, 1991 through and including December 7, 1991, following investigation for alleged violation of Rule 604 of the Rules of the Maintenance of Way and Structures Rule Book of Southern Pacific Transportation Company (Western Lines).
2. That accordingly, the Southern Pacific Transportation Company be ordered to compensate Electrician P.R. Hug for all lost wages due to the thirteen (13) days he was suspended, with all rights unimpaired, including service and seniority, vacation, payment of hospital and medical insurance, group disability insurance, railroad retirement contributions, and loss of wages to include interest at the rate of ten percent (10%) per annum."

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 employee 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 of hearing thereon.

Claimant is employed by Carrier as an Electrician. He is regularly assigned to the Maintenance of Way Department in Klamath Falls, Oregon. On August 17, 1991, Claimant and two Water Service Mechanics were instructed to report to the Cantara Loop to set up flood lights so that crews could work at night repairing the area of a major derailment. Claimant was the only Electrician available. The record reveals that he was instructed to report to work at 2:00 P.M., but arrived at 2:40 P.M. He got to the work site at 4:30 P.M. After the lights were set up, Claimant left the work site, leaving the two Water Service Mechanics in charge at the site.

On Monday, the Utility Supervisor was informed that Claimant had reported for work late and had left the work site without permission. As a result of his actions, Claimant was notified to appear at a hearing. Claimant was charged with violating Rule 604 and Rule 607. Those Rules read in pertinent part as follows:

"Rule 604: Employees must report for duty at the designated time and place... They must not absent themselves from duty, exchange duties or substitute others in their place without proper authority.

Rule 607: Employees must not be... 3. Insubordinate... Indifference to duty, or to the performance of duty, will not be condoned."

After two postponements, the Investigation was convened on October 8, 1991. As a result of that Investigation, Claimant was found guilty and assessed a thirteen-day suspension. The letter notifying him of the outcome of the Investigation reads as follows:

"Evidence adduced at formal hearing at Klamath Falls, Oregon, October 8, 1991, established your responsibility for your failure to report for duty at the prescribed time and place, and also your failure to remain at your post of duty at Cantara, when you absented yourself from your responsibility without proper authority, August 17, 1991.

Your actions in this instance constituted violation of the following rule:

'RULE 604. Employees must report for duty at the designated time and place... They must not absent themselves from duty, exchange duties or substitute others in their place without proper authority.'

of the Rules of the Maintenance of Way and Structures Rule Book effective March 1, 1990.

For reasons stated, you are hereby suspended for a period of thirteen (13) days, commencing November 25, 1991 through December 7, 1991."

This Board has reviewed the total record of this case. As a result of that review, the Board concludes that Claimant was afforded all substantive and procedural rights guaranteed him by Agreement. Carrier's imposition of a thirteen-day Suspension in this instance is reasonable. This Board can find no basis in this record for modifying Carrier's actions in any manner.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 13th day of October 1994.