

NATIONAL RAILROAD ADJUSTMENT
SECOND DIVISION

Award No. 12766
Docket No. 12585
94-2-92-2-143

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

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

STATEMENT OF CLAIM:

"1. That the Union Pacific Railroad Company violated the current agreement, and in particular Rule 37, when Electrician W. L. Springborg was unjustly dismissed from service on the date of August 23, 1991, at Omaha, Nebraska

2. That accordingly the Union Pacific Railroad Company be ordered to compensate Electrician W. L. Springborg as follows:

- (a) Compensate for all time lost at the prime rate of interest;
- (b) Return to service with seniority rights unimpaired;
- (c) Made whole for all vacation rights;
- (d) Made whole for all health and welfare and insurance benefits;
- (e) Made whole for pension benefits including Railroad Retirement and Unemployment Insurance;
- (f) Made whole for any other benefits that he would have earned during the time withheld from the service; and further, any record of this discipline action be expunged from his record."

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 at hearing thereon.

Starting May 17, 1991, Claimant absented himself from service. He was cited for an Investigation on this absence and was given a ninety day deferred suspension. This suspension was appealed to the Board, and in Second Division Award 12619, the discipline assessed was upheld. Even though Claimant was not removed from service, and the discipline issued for his failure to report for work was a ninety day deferred suspension, he continued to be absent from work. Consequently, on July 26, 1991, Claimant was cited for a second Investigation to be held on August 6, 1991, on the new charge that he was AWOL since July 19, 1991, the date of his first Investigation. On August 23, 1991, Claimant was notified that he had been dismissed from Carrier's service. It is the dismissal resulting from the second Investigation that is now before this Board.

The transcript of the August 6, 1991, Investigation has been carefully reviewed by the Board. It is noted that Claimant freely admitted that he has not worked since July 19, 1991, the date of his first Investigation. Further, Claimant acknowledged that he had not requested a Leave of Absence. Importantly, Claimant indicated that he had not even told his supervisors that he was not coming to work. Claimant's conduct is the same as if he abandoned his job. In the circumstances present discipline of dismissal will not be disturbed.

AWARD

Claim denied.

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O R D E R

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 17th day of November 1994.