

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12831
Docket No. 12792
95-2-93-2-152

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical
(Workers
(
(Southern Pacific Transportation Company
((Denver and Rio Grande Western Railroad Co.)

STATEMENT OF CLAIM:

- "(1) That under the current Agreement, Maintenance of Equipment Department **Electrician L. B. Morant** was unjustly treated when she was dismissed from service on May 7, 1992, following investigation for alleged violation of portion of Rule 1011 of the General Rules and Regulations for the government of all employees of the **Southern Pacific Lines** which includes the **Denver and Rio Grande Western Railroad Company**.
- (2) That accordingly, the Denver and Rio Grande Western Railroad Company be ordered to restore Electrician L. B. Morant to service 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; including 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 at hearing thereon.

Claimant was effected by the transfer of work and employees from Sacramento, CA to Denver, CO. She agreed to the transfer, accepted certain sums of money for the transfer and true to her word, timely reported to her newly assigned work point.

Upon reporting, however, she requested a 90 day leave of absence on the basis she had not got her relocation together. The Carrier employee of whom she requested the leave was the Chief Clerk who advised claimant to clock in, work her assigned shift and then contact the Plant Manager in the a.m. in regards to the leave. The Chief Clerk added that she doubted the leave would be for 90 days, more like several weeks but, again, the instruction to Claimant was to contact the Plant Manager.

Claimant did not clock in, made no effort to contact the Plant Manager, placed her blank time card by the time clock and returned to her home in California.

Claimant was served a notice of charges dated April 7, 1992, that on April 28, 1992, a formal hearing would be held in connection with her absence from service from March 11, 1992, through and including April 28, 1992.

The hearing took place as scheduled. The evidence adduced thereat established that claimant was absent from service during the period specified in the notice of charges.

At the formal hearing Claimant alluded to the illness of her father and her desire to stay near him, plus not wanting to relocate during the winter months. These reasons for wanting the leave were never articulated prior to the notice of charges nor had Claimant sought a written leave of absence.

Carrier had sufficient grounds to assess discipline but the Board believes termination was excessive. It's noted that although the Carrier stated, when assessing discipline that Claimant's record had been reviewed, evaluated and considered, yet, nowhere in the record before this Board is Claimant's record set forth. The Board must, therefore accept that Claimant's record is clear for the 19 years she had been employed.

Claimant is to be reinstated to service with her seniority rights unimpaired, subject to whatever examinations Carrier policy dictates for any employee who has been out of service as long as Claimant has, but without compensation for time lost.

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AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 26th day of January 1995.