

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

**Award No. 13156**

**Docket No. 13032**

**97-2-95-2-59**

**The Second Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.**

**(International Association of Machinists and  
( Aerospace Workers  
PARTIES TO DISPUTE: (  
(CSX Transportation, Inc. (former Baltimore &  
( Ohio Railroad Company)**

**STATEMENT OF CLAIM:**

- "1. That, in violation of the current agreement, CSXT (former Baltimore & Ohio Railway Company) arbitrarily disciplined Machinist R. W. Faidley by unjustly assessing a ten (10) working day suspension. The suspension was effective June 24, 1994.**
- 2. That, accordingly, CSXT be ordered to compensate Machinist Faidley for all time and benefits lost and clear his record of all reference to this charge."**

**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 were given due notice of hearing thereon.

At the time this dispute arose, Claimant was employed at the Cumberland Locomotive Shop in Cumberland, Maryland. On May 25, 1994, Claimant was notified to appear for an Investigation concerning the following:

**"...You are charged with excessive absenteeism and failing to protect your regular work assignment, on January 3 & 4, 1994; February 11 & 12, 1994; March 4 & 25, 1994; April 8 & 15, 1994; and May 7, 15, 21 & 22, 1994."**

The Hearing was postponed at Claimant's request and he failed to attend the rescheduled Investigation. The Carrier then conducted the Hearing in absentia. Claimant offered neither his Organization, nor the Carrier an explanation for his absence from the Hearing.

As the Board noted in Second Division Award 13147, it is not unreasonable for Carrier to proceed where the Claimant has been properly notified of the Hearing and, without stating a reason, elects to absent himself from the Investigation. A careful review of the record before the Board reveals that the Carrier met its burden of persuasion in this case. Carrier has shown that Claimant had 12 absences in four months. Furthermore, it is undisputed that of those 12, three were unexcused. In light of the foregoing, the Board sees no reason to remove or modify Carrier's assessment of a ten day suspension.

**AWARD**

Claim denied.

**Form 1**  
**Page 3**

**Award No. 13156**  
**Docket No. 13032**  
**97-2-95-2-59**

**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 8th day of September 1997.**