

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13363

Docket No. 13262

99-2-97-2-35

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

(International Association of Machinists and
(Aerospace Workers (District 19)

PARTIES TO DISPUTE: (

(Consolidated Rail Corporation

STATEMENT OF CLAIM:

“1. Consolidated Rail Corporation arbitrarily and capriciously dismissed Machinist S. M. Miller following trial held on March 29, 1996.

2. Accordingly, Machinist S. M. Miller should be immediately restored to service, paid for all time lost, including overtime, be credited for any and all fringe benefits that would have accrued had not the unjust discipline been imposed, and have his record cleared of any reference to the charges.”

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.

Carrier dismissed the Claimant from its service on April 9, 1996 as a result of a formal Investigation held on March 29, 1996. Carrier found the Claimant failed to report for duty on February 24, 1996.

The record reveals that Claimant entered the service of the Carrier on March 19, 1992 and that on February 24, 1996 Claimant was absent without authority.

The action taken by the Carrier is the fourth formal discipline assessed the Claimant beginning on March 19, 1994. All previous actions were for absenteeism.

There is no debate as to the fact that the Claimant was absent on the charge date. Based on the Claimant's previous poor record for absenteeism, this Board will not disturb the actions of the Carrier.

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 23rd day of February 1999.