

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 36764
Docket No. MS-36194
03-3-00-3-391

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Chad C. Geiseler
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(CSX Transportation, Inc.

STATEMENT OF CLAIM:

"I was put under investigation in Feb. of '99 for missed worked days and an occasion of sleeping on the job. I was given a hearing notice but failed to attend and was sent notice of my release from duty by mail. The days I missed can be accounted for and/or explained. Supervisor Spoors had me out the entire month of Dec. going through a process to ensure the medicine I was taking at the time was safe for work on the job site. A few other days were for my honeymoon and scheduled time off. The majority of days I missed were directly related to a chemically imbalanced medical condition I am now being treated for.

I understand that CSXT needs to have reliable employees, so I do not dispute why I was let go. The medical condition I have recently been diagnosed with has severely affected my moods and behavior over the past few years. I think that another chance for employment would benefit both myself and CSX. First, it would give me another chance at the best job I have ever had, second, CSX has spent a lot of money training me and sending me to school. I am an honest and very hard worker, can get a task done on time, and quickly learn new things. My previous Signal Foremen can verify this despite other issues.

I am anxious and hopeful for another opportunity with CSXT."

FINDINGS:

The Third 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.

After Investigation held March 1, 1999 on charges that the Claimant, an employee since 1997, was in non-compliance of EAP and had chronic absenteeism, missing 53 days in the prior year and sleeping on duty (which Investigation the Claimant failed to attend) the Claimant was dismissed from service by letter dated March 31, 1999 on the basis of those charges being proven.

Putting aside the fact that the Board does not have the authority to grant leniency (which the Claimant seems to be asking for) we find that substantial evidence exists in the record to support the Carrier's determination that the Claimant engaged in the charged misconduct. Indeed, the Claimant's appeal to the Board effectively admits the allegations made against him and the propriety of the Carrier's actions. Under the circumstances, dismissal was not arbitrary.

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 Third Division

Dated at Chicago, Illinois, this 29th day of December 2003.