

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employees  
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood  
(GL-10120) that:

(a) Carrier violated the current Clerks' Agreement at Pearland, Texas, when on May 23, 1985, it dismissed C. L. Wilson from service, and

(b) Facts developed at the formal investigation held on May 22, 1985, failed to sustain Carrier's alleged charges and did not justify or warrant the harsh penalty imposed, and

(c) C. L. Wilson shall now be reinstated to service of the Carrier with all rights unimpaired and paid for all monetary loss sustained as a result of being discharged on May 23, 1985, until reinstated, and

(d) C. L. Wilson shall be paid an additional twelve per cent per annum until claim is paid."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employees 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.

The Claimant was allegedly absent from work on thirteen days between February 12, and May 5, 1985. This constituted an absenteeism rate of 22.4 percent. Following an investigation on May 22, 1985, Claimant was found to be in violation of Rules 2 and 16 of the General Rules for the Guidance of Employees, 1978, and removed from service. Claimant had been absent 31.6 percent of the time between January 6 and February 1, 1985.

The Organization alleges that Rule 24-A prohibits the consideration of any absence more than 20 days prior to the time Claimant is notified of the charges to be investigated. In cases in which absenteeism is alleged, however, the final date may be considered to be one in a continuing series of absences that, in turn, incorporates all previous absences.

The Board finds that the notice of investigation was sufficiently precise to allow Claimant an opportunity to present an adequate defense.

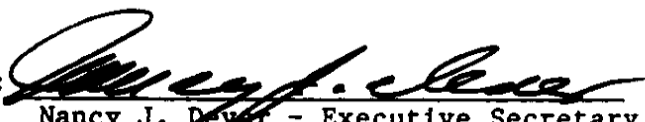
Claimant's past record reveals the issuance of 20 demerits for his failure to report for duty in 1983 and a prior discharge and reinstatement on a leniency basis in December 1984 for being AWOL, with the admonition that "if reinstated you will protect the service required of you without absences." It is clear from the record that Claimant was unable to live up to that requirement, even following an additional warning to do so. The Claimant asserted several reasons for his absences, i.e., he was taking medication which had side effects that rendered him unavailable for service; car trouble; bad weather; and illness. Assuming all such assertions to be factual, this Board has long held that there may come a time when an employer need no longer countenance excessive absenteeism on the part of an employee. The presence of a reliable work force is essential for an employer to carry out its mission. When the facts of this case are weighed against that imperative, it must be concluded that Carrier was not arbitrary or capricious in reaching the decision that it did.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1988.