

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: ( Brotherhood of Maintenance of Way Employees  
( Union Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The dismissal of Steel Erection Foreman K. A. Collins for alleged violation of Rules 604, 606, General Rule A and General Rule B was without just and sufficient cause, on the basis of unproven charges and in violation of the Agreement (System File D-102/870473).

(2) The Claimant shall be reinstated to service with seniority and all other rights unimpaired, his record cleared of the charges leveled against him and he shall be compensated for all wage loss suffered."

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 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.

Claimant was employed as a steel erection foreman. On December 1, 1986, Claimant was directed to attend a formal Investigation of the charge:

"While you were employed on Steel Erection Gang 1972 at Point of Rocks, Wyoming on November 26, 1986, you allegedly [sic] absented yourself from your assignment without authority while still claiming compensation for the hours of 7:30 A.M. to 4:00 P.M. exclusive of lunch period submitted on your Form 1054-2, Labor Report, the same date."

The Hearing was held on December 17, 1986, and, as a result, Claimant was dismissed from service. The Organization thereafter filed a claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of being absent from his assignment without authority and then claiming compensation for that time.

Once this Board has determined that the Claimant was properly found guilty, we next must turn our attention to the type of discipline imposed. We note that Claimant had a long period of service with the Carrier. However, given his work record, which includes a previous dismissal and previous discipline for falsifying his time card, this Board must find that the Carrier did not act unreasonably, arbitrarily, or capriciously when it terminated his employment, despite his long service with the Carrier. Therefore, the claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:   
Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1989.