

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 29816
Docket No. MS-30461
93-3-92-3-326

The Third Division consisted of the regular members and in addition Referee Barry E. Simon when award was rendered.

PARTIES TO DISPUTE: (Jesse Scott Brinkerhoff
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(Union Pacific Railroad

STATEMENT OF CLAIM:

"Claim of unadjusted dispute by J. S. Brinkerhoff that:

1. The dismissal of J. S. Brinkerhoff was without just cause and based on an insufficient showing of allegations against him. The action against J. S. Brinkerhoff was arbitrary and capricious. The action against J. S. Brinkerhoff had no basis in fact.
2. J. S. Brinkerhoff should be reinstated with Seniority, Vacation, and all Qualifications and all other rights unimpaired and be compensated for all wages loss suffered."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 dismissed on October 22, 1990, for falsification of a personal injury report and not reporting a personal injury promptly. According to Claimant's testimony at his Investigation, he injured himself while at work on September 13, 1990, but did not realize the extent of his injury. Later that day, Claimant called home and learned that his wife's grandfather had died. He then asked his foreman for some time off to attend the funeral in Kansas, gathered his belongings and left town.

Claimant states he told his wife to call his foreman on September 15, 1990, to advise that he would not be back to work when expected because the tires on his car were bad. He also asked his wife to tell the foreman that he was in pain because he had injured his back at work. According to the foreman, Claimant's wife only mentioned his inability to return because of the tires. He denied any knowledge of Claimant possibly sustaining an injury until he returned to work.

Claimant's supervisor testified he first learned of Claimant's injury when he returned Claimant's phone call on September 24, 1990. At that time, according to the supervisor, Claimant asked for another week of vacation because he had pulled a muscle in his back during the previous week's vacation. The supervisor told Claimant he would have to fill out an off duty accident report and have a doctor's release before he came back to work, and Claimant acknowledged that instruction.

Claimant returned to work on October 4, 1990, and presented an accident report which stated he had injured himself while on duty on September 13, 1990.

Based upon the record in its entirety, this Board finds there is substantial evidence to support the Carrier's conclusion Claimant did not injure himself at work, but filed an accident report which falsely claimed he did. Even if the report had been accurate, it was in violation of the Carrier's Rule requiring the prompt reporting of accidents.

Falsification of accident reports is a serious offense constituting fraud. This Board has regularly upheld dismissal under similar circumstances. We see no reason to modify the Carrier's decision in this case.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois this 29th day of September 1993.