

NATIONAL MEDIATION  
BOARD

Award No. 6  
Case No. 6

Oct 15 1 10 PM '85

NATIONAL RAILROAD  
ADJUSTMENT BOARD

PUBLIC LAW BOARD NO. 3727

PARTIES ) INTERNATIONAL ASSOCIATION OF MACHINIST AND AEROSPACE WORKERS  
)  
TO )  
)  
DISPUTE ) NORFOLK AND WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM:

Claim filed in behalf of Machinist J. S. Austin appealing from discipline of ten day actual suspension commencing August 1, 1983 and his record cleared of any reference to this matter.

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee respectively within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

This dispute involved the interpretation and application of the agreement between parties effective September 1, 1949 and concerns basically whether the ten day actual suspension assessed by Carrier was arbitrary and capricious.

As the result of an investigation held on May 25, 1983 the following facts were disclosed relating to the charge that Claimant was responsible for excessive absenteeism including late arrivals and early departures from his work assignment in Carriers Machine Shop, Roanoke, Virginia. Evidence was produced indicating that during the period June, 1982 to March, 1983 Claimant was absent from work or was late arriving or departed from work early an excessive number of times as compared to the norm for other employees similarly situated. During that timeframe the record of Claimants hours worked indicated a 12% absenteeism as compared with an average for the Machine Shop of 4.6%. Claimants late arrivals and early departures during that same period of time amounted to 24 instances or 2.4 per month. For the entire work group, excluding Claimant, during the same time period there were a total of 71 instances or 0.5 per man per month. Based on the foregoing Carrier concluded that Claimants absences and late arrivals and early departures were excessive.

Claimant, who is a single parent with a 5 year old child, explained his absences and irregular attendance on the necessity to provide child care and to deal with emergencies incident thereto. He explained that despite efforts to secure reliable child care, that frequently because of such unpredictable factors as illness of the child, early closing of the child care facility and similar matters, Claimant would from time to time be required as the sole parent to absent himself from work until the situation could be dealt with.

While Claimant presented a very sympathetic case, it is not the function of this Board to substitute its judgement for that of the Carrier, absent evidence that either the conclusion preceeding discipline is without a substantial evidentiary base or that the discipline imposed is arbitrary or capricious. While it is understandable that Claimant will not neglect his parental responsibility neither can he neglect his work responsibility. It is unquestionably a difficult burden, but a burden which Claimant must non the less bear. A ten day suspension is not an unreasonable action by the Carrier who seeks to impress upon Claimant and other employees with whom he works, the necessity of regular attendance to work and faithful observance of the work hours. Based on the foregoing no justification is presented for disturbing Carriers actions in this case.

AWARD:

Claim denied.

  
Howard Jenkins, Jr., Chairman  
and Neutral Member

  
D. E. Rybicki, Carrier Member

  
W. D. Snell, Employee Member

9/25/85