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PUBLIC LAW BOARD NO. 4874

PARTIES) UNITED TRANSPORTATION UNION (C&T)
TO BOARD)
DISPUTE) NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

STATEMENT OF CLAIM:

Appeal of A. Anderson from discipline of dismissal imposed in connection with the following charge be rescinded, expunged from his record and that he be restored to service with seniority and vacation rights unimpaired and compensated for all time and expenses incurred, inclusive of health and welfare premiums, reduced train crew allowance and productivity savings sharing allowance and credit for Railroad Retirement payments for each month for all time lost in connection therewith:

"Failure to comply with instructions issued to you in letter written by Paul J. LaClair, Terminal Superintendent, Washington Division, on July 7, 1989, wherein you were directed to present yourself with five (5) days of receipt of this letter for your return to duty physical, or provide documentation as to your disability." (System Docket No. NEC-UTU(C&T)-SD-179D)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee 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.

The Claimant was dismissed from service on September 11, 1989 on a Carrier determination that he was guilty as charged of failure to report as directed for a company physical examination or to provide documentation of an inability to return to service.

The record shows that the Claimant had served a 20-day suspension from service for a prior offense from May 27, 1989 through June 15, 1989. When he failed to report for work following completion of this disciplinary suspension, he was, by letter dated July 7, 1989, directed to report for service within five days of receipt of such letter or produce evidence of his inability to return to service.

On July 17, 1989 the Claimant requested, and the Carrier granted,

a postponement of the date for the return to duty physical examination to July 27, 1989.

The Claimant did not appear for his physical on this latter date or in any way contact the Carrier.

Thereafter, by letter dated August 15, 1989, the Claimant was notified of the aforementioned charge against him and directed to appear for a hearing on August 28, 1989. The Claimant failed to appear on this latter date and the hearing was postponed to September 5, 1989. When he again failed to appear, the hearing was held in absentia.


The Board finding that the Claimant had been extended full opportunity to support his continuing absence from work, and having failed to do so, we have no cause for disturbing the disciplinary action taken by the Carrier. The claim will therefore be denied.

AWARD:


Claim denied.



Robert E. Peterson, Chairman
and Neutral Member



R. F. Palmer
Carrier Member



C. Bryant
Organization Member

Philadelphia, PA
July 25, 1990