

AWARD NO. 4
Case No. 4

Organization File No.
Carrier File No.

PUBLIC LAW BOARD NO. 7701

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION,
) INTERNATIONAL BROTHERHOOD OF TEAMSTERS
TO)
)
DISPUTE) IOWA INTERSTATE RAILROAD, LTD.

STATEMENT OF CLAIM:

1. The Carrier's discipline (dismissed from the service of the Iowa Interstate Railroad effective immediately) of Mr. D. Gothard, issued by letter dated March 3, 2014, in connection with his alleged failure to comply with the Carrier's General Rules 1.1 and 1.6 and the Carrier's Policies 2.15 - Employee Conduct and 3.6 - Timekeeping in that on November 15, 2013 he left his assignment for a doctor's appointment at approximately noon after observing his lunch period, without being observed back of [*sic*] the Carrier's property until approximately 3:00 P.M. and submitting a claim and being paid for a full eight (8) hours of service, was arbitrary, capricious, excessive and without merit.
2. As a consequence of the Carrier's violation referred to in Part 1 above, Mr. Gothard shall be reinstated to service with seniority unimpaired and paid for all lost wages, including but not limited to all straight time hours, overtime hours, paid and non-paid allowances and safety incentives, expenses, per diems, vacation, sick time, health and welfare and dental insurance and any and all other benefits to which entitled.

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated July 17, 2014, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

Certain material facts in this case are undisputed. On November 15, 2013 Claimant was assigned as a section foreman at Bureau, Illinois with hours of 7:00 am to 3:30 pm, with a half-hour of uncompensated lunch. After taking his lunch period, Claimant left work at 12:05 pm for a doctor's appointment at 12:45 pm. Claimant asserts he returned to work at 1:30 and 1:45 pm, but the Carrier says he was not seen back at work until as late as 3:00 pm. Claimant submitted a time slip for eight hours' pay, which he received. It was later brought to the Carrier's attention that Claimant received pay for time he was not at work.

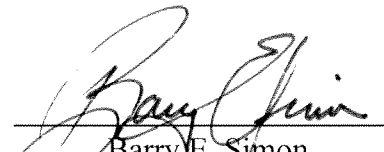
Claimant was consequently directed to attend a formal investigation at which he was charged with absenting himself from his assignment but submitting a claim and receiving compensation for a full eight hours. Following the investigation, which was held on February 17, 2014, Claimant was dismissed from service effective March 3, 2014.

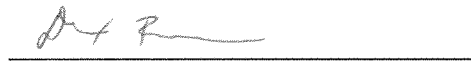
Our review of the record of the investigation shows that Claimant did not dispute that he had claimed a full day's pay despite the fact that he took time off to go to the doctor. He offered no explanation for doing so. It does not matter whether Claimant returned to work at 1:30 or at 3:00. The material fact is that he claimed pay for time he had not worked. Arbitral boards in this industry, as well as throughout the world of work, have consistently upheld discipline, up to and including discharge, for such an offense. We see no reason to modify the discipline imposed in this case.

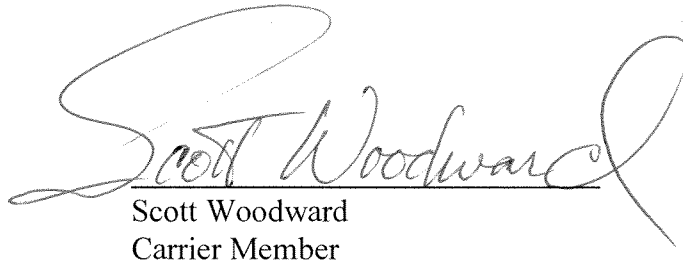
The Organization has challenged the discipline based on the timeliness of the investigation. It asserts that the Roadmaster should have known all of the relevant facts at the time they occurred. The record, however, does not bear that out. In order to believe that there might have been a cause for discipline, the Roadmaster would have had to know that Claimant was not at work and that he

claimed pay for the time he was not at work. While he might have known that Claimant went to the doctor during work hours, the record does not show that he had seen Claimant's time sheet for that day. While the Roadmaster may review time sheets on occasion, he is not the one responsible for approving them. In the absence of proof that the Roadmaster was aware of both elements of the offense, we cannot find that the time limit for conducting an investigation began before this incident was brought to his attention on February 5, 2014.

AWARD: Claim denied.


Barry E. Simon
Chairman and Neutral Member


David Pascarella
Employee Member


Scott Woodward
Carrier Member

Dated: July 1, 2015
Arlington Heights, Illinois