

PUBLIC LAW BOARD NO. 6884

Award No.
Case No. 7

PARTIES TO DISPUTE:
(Brotherhood of Locomotive Engineers
(Kansas City Southern Railway Company

STATEMENT OF CLAIM:

Claim of Engineer Randy Davis for reinstatement to service, removal of the dismissal from his personal record, and pay for all time lost.

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended. Further, the Board is duly constituted by Agreement, has jurisdiction of the Parties and of the subject matter, and the Parties to this dispute were given due notice of the hearing thereon.

Claimant was called at 0245 for a 0415 assignment. The caller tapes clearly establish Claimant accepted the call. At about 0500, the Conductor called advising Claimant had not arrived. The instructions to the caller were to call another Engineer, which was done.

Claimant did call in shortly after 0505 indicating he would be there in about 30 minutes, but was told the job was already filled. Claimant came on the property at 0600 and the Engineer called to work in lieu of Claimant indicated he would step aside; however, management turned the request down.

This incident occurred February 8, 2004. The investigation regarding his unavailability as outlined in Case 6 had not yet been held. Both parties agreed to hold

both investigations separately, but on the same date, February 15, 2004. In the meantime, Claimant was suspended from service on February 8, pending the outcome of the investigation in this case.

Claimant had no sound bona fide reason for not reporting as called.

As in Case 6, the Carrier furnished sufficient evidence of Claimant's culpability for the charges assessed.

When considering the discipline assessed (dismissal), the Board looks at the record, the offense, and then determines if the discipline is appropriate. Looking at Claimant's record with this charge and the charge in Case 6, making seven entries on a discipline record all for the same offense, the chances are good that dismissal could be upheld; however, as stated in Case 6, Claimant's troubles are not related to train handling.

This clearly must impress upon Claimant that he must protect the service he is called for. With seven instances of being unavailable for service, any future such charge will result in termination of employment. In other words, Claimant is given one last chance to redeem himself sufficiently so that when he is of age, he can retire and enjoy his pension.


AWARD

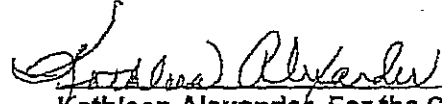
Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the award effective on or before 30 days following the date the award is adopted.


Robert L. Hicks, Chairman & Neutral Member


Merle W. Geiger, For the Employees


Kathleen Alexander, For the Carrier

Dated: 9/29/05

