

PARTIES TO DISPUTE:

UNION PACIFIC RAILROAD COMPANY
AND
BROTHERHOOD OF LOCOMOTIVE ENGINEER AND TRAINMEN

STATEMENT OF CLAIM:

"Request the removal of second offense violation of Union Pacific's Attendance Policy, from the record of engineer J. B. Veillon with him being made whole, which includes but not limited to lost earnings, all vacation rights, cobra payments and any other penalties associated with this discipline."

FINDINGS:

On November 1, 2004, Carrier mailed Engineer Veillon a certified letter, advising:

"You are hereby notified to be present in the conference room, 5245 River Road, Avondale, LA on November 9, 2004 at 11:00 a.m. for a formal investigation.

The purpose of this investigation is to develop the facts and determine responsibility, if any, in connection with your alleged violation of the Union Pacific Attendance Policy effective January 15, 2004, as a result of your alleged continued failure to protect employment by excessively absenting yourself from service as noted on the attached work history and/or calendar, between January 1 and October 25, 2004, while employed as an Engineer with the Union Pacific Railroad.

You are charged with the responsibility which may involve a violation of the General Code of Operating Rules 1.13, and 1.1.5 as adopted and modified by the Union Pacific Railroad.

You are entitled to representation and witnesses in accordance with agreement provisions. One request for postponement may be granted and must be submitted in writing, including reason, therefor, to the contact manager, prior to the date of hearing.

Engineers Only. Pursuant to the BLE Labor Agreement, you are advised that the disciplinary assessment for these allegations may result in a finding of "Second Offense" under the Company's Attendance Policy.

Should you wish to waive this hearing, you may contact David Henagan at (402) 501-1028 to arrange an informal conference prior to the investigation."

Formal investigation was convened, as scheduled, on November 9, 2004. After reading transcript of investigation, Carrier found Engineer Veillon responsible for "Second Offense Absenteeism;" and a discipline letter so stating was added to his personal record. Discipline was advanced - without resolution - to highest-level officer of appeal. This dispute comes, now, before this Board for final and binding adjudication.

During formal investigation, Charging Officer testified that Engineer Veillon was unavailable for work on April 17, 2005; April 20, 2005; June 1, 2005, and numerous other days; later, under cross examination, Charging Officer acknowledged those days should not have been considered because Engineer Veillon was either compensated for those days or he would have been ineligible for work due to insufficient rest.

Organization maintained that Carrier's charge of "Second Violation of Attendance Policy" used as its foundation discipline assessed in the initial investigation in which Engineer Veillon's due process rights were violated when Carrier failed to follow its own policy.

OPINION OF THE BOARD:

The Board read the entire record of evidence in this dispute. We, then, reviewed the record for Case #54, on this same Board. We noted the Board set aside discipline assessed for "First" violation of Attendance Policy in Case #54. Since the "Second" violation of Attendance Policy is the house that used the "First" violation as its foundation; when the foundation crumbled, the entire house fell to the ground. For that reason, alone, discipline assessed in the instant dispute must, likewise, be set aside.

We were troubled, also, in observing the number of absences Carrier considered before formalizing the excessive absenteeism charge; then, later, acknowledged - under cross examination - that many of the recorded absences were erroneous and should not have been included in formal charges since Engineer Veillon either was compensated for absences or would have been ineligible for work because of insufficient rest.


We are not at all sure whether Carrier would have advanced charges, or if charges would have been substantiated had this dispute been argued on the accurate record of absenteeism. Carrier would do well to ensure the accuracy of its facts in preparing for these excessive absenteeism investigations.

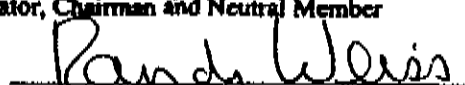
PLB 6833
CASE NO. 57
AWARD NO. 57

AWARD:

Claim sustained per findings above. Carrier is directed to implement this award within thirty (30) days of execution by majority Board members.


J. S. (Jim) Nash - Arbitrator, Chairman and Neutral Member


4-25-06
Employee Member, Mr. Lee Pruitt
Brotherhood of Locomotive Engineers &
Trainmen


Carrier Member, Mr. Randy Weiss
Union Pacific Railroad Company

April 25, 2006