

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 69, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)
FLORIDA EAST COAST RAILWAY

DISPUTE: CLAIM OF EMPLOYEES.—System Federation No. 69 claims C. V. Robshaw should be restored to his former position as United States Safety Appliance Inspector, his record cleared of the reprimand, and paid for all wages lost.

EMPLOYEES' STATEMENT OF FACTS.—C. V. Robshaw was demoted for alleged improper inspection of A. C. L. coach No. 1101.

POSITION OF EMPLOYEES.—That the investigation held February 20, 1936, in the office of Car Foreman J. R. Vaughn does not comply with the requirements as set forth in Rule 29, of the agreement, which provides in part:

"No employee shall be disciplined without a fair hearing by a designated officer of the Railway."

We contend that the presiding officer at this hearing was unfair, since all favorable evidence presented in defense of Mr. Robshaw's action was omitted from the record of the hearing.

Previous to the hearing it was agreed that a stenographic report would be taken and a copy furnished the committee and Robshaw immediately thereafter.

During the hearing evidence was presented showing that a message had been received by Mr. C. L. Beals, general superintendent, Mr. F. S. Robbins, superintendent motive power and machinery, Mr. E. S. Smith, master car builder, and Mr. F. L. Workman, local agent, from the chief train dispatcher, Mr. J. L. Byrum. This message instructed Mr. Robbins to have the valve open in order that the car concerned would heat promptly when coupled in the train.

On the afternoon of February 1, Pipefitter Foreman T. B. O'Lynn was delegated to inspect the A. C. L. coach 1101 at the passenger station, which duty he performed with the full knowledge of the contents of the message. Prior to the hearing Mr. O'Lynn made the statement to Mr. Robshaw that had he found the valve in closed position, he would have considered that it was for some special purpose and therefore left it as he had found it.

Mr. Robshaw received instructions to protect this movement February 2, but was not, however, as in the case of Mr. O'Lynn, furnished with a copy of the message. Written instructions were received by Mr. Robshaw and fully complied with by him, with the exception of the requirement that steam be turned on to the desired pressure thirty (30) minutes before leaving time, since there is no provision for steam at St. Augustine. The train to which the car was coupled was two (2) hours late and left as soon as Mr. Robshaw had coupled all hose, thus preventing him from ascertaining whether or not the car would heat.

During the hearing Mr. Vaughn was asked to determine when Mr. O'Lynn's responsibility ceased and Mr. Robshaw's began. Mr. Vaughn did not answer this question. Mr. Vaughn was also asked how he expected Mr. Robshaw to carry out such instructions; he replied that that particular portion of the instructions did not apply to St. Augustine. He was later asked if the equipment operated any differently at St. Augustine than at any other point. He did not answer the latter question.

May it be explained here that Mr. Robshaw was thoroughly unfamiliar with the operation of air-conditioning equipment, although this equipment was installed about eight months prior to this instance. Mr. Robshaw has never been permitted to receive instructions in the operation of this equipment, notwithstanding the fact that other inspectors were brought to St. Augustine from

placed in the car shops as freight car repairer, his rate of pay being reduced from 85 to 73 cents per hour.

POSITION OF CARRIER—Mr. Robshaw's duties as Safety Appliance Inspector, among other things, was to inspect incoming and outgoing cars in St. Augustine Yard, and the work to which he was assigned on the date in question was work that he had performed many times previously and with which he was familiar. He was given a call on Sunday for this special purpose and this gave him plenty of time to do the work required. He was familiar with the type of steam heat apparatus on this car, as it is practically a duplicate of the installation on many of the railway's standard cars. It will be noted in the investigation that Mr. Robshaw admits that he did not inspect these No. 124 valves before the car was picked up and as he knew the weather was cool and that the car was occupied, it was very plainly his duty to see that the car was in condition to be heated when it was put into the train.

Mr. Robshaw's record shows that he has been indifferent and has not taken proper interest in his work prior to this occurrence. It will be noted that on June 9, 1933, an investigation was held with him in regard to leaving tools along the right-of-way in St. Augustine Yard, which case, however, was passed without discipline. Also on May 22, 1935, an investigation was held with him for permitting two cars to be moved in St. Augustine Yard without proper safety appliances, for which he was given a reprimand. There have been a number of other minor cases of negligence and inattention to duty on the part of Mr. Robshaw, which have been brought to his attention, from time to time, verbally by officers of the railway and on account of his indifference and because of the very serious complaint in regard to the "Three Men on a Horse" Company movement, it is the position of the railway that it was justified in placing him on an occupation where he would not cause the railway to lose traffic, or be endangered by allowing equipment to be handled in service without proper safety appliances, or in a defective condition.

FINDINGS—The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The evidence submitted does not sustain the position of the employes.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 6th day of August, 1936.