Award No. 2066

Docket No. 1929

2-SOU-EW-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee David R. Douglass when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 21, RAILWAY EMPLOYES' DEARTMENT, A. F. of L. (Electrical Workers)

SOUTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1—That under the current agreement Electrician W. P. Stephens, Jr., was unjustly suspended on June 8, 1954 and dismissed from the Carrier's service on June 11, 1954.

2—That accordingly the Carrier be ordered to restore the aforementioned Electrician to service with seniority and vacation rights unimpaired and compensate him for all time lost since June 9, 1954.

EMPLOYES' STATEMENT OF FACTS: Electrician W. P. Stephens, Jr., hereinafter referred to as the claimant, was employed by the carrier on October 7, 1949, as an electrician at its Spencer shops, Spencer, North Carolina, and continued as such until June 8, 1954, when he was suspended and dismissed on June 11, 1954. His regular assignment was 7:15 A. M. to 3:15 P. M., five days per week with two rest days and assigned to the roundhouse on the work of making necessary adjustments and repairs on the electrical equipment of diesel-electric locomotives. He was the duly elected local chairman of the electrical worker's grievance committee at the above referred to shops and as such handled with the local management all grievances arising in the several divisions of the electrical department here; he was responsible in seeing that the current agreement was observed by both the employes and the company's local officers, which included the assignment of employes in their seniority order in conjunction with the local management, keeping records of the assignments, assignment of electrician apprentices to their proper schedule, the checking of bids and other matters recognized as the duties of a craft local chairman at this shop. The rules of the current agreement do not prescribe the procedure that a local chairman of a craft shall follow in the discharge of his duties to both parties to the agreement, therefore, the established practice at the shop governs.

On June 7, 1954, the claimant's immediate foreman, J. B. Rodgers, complained that he (the claimant) was taking too much time doing committee work, and again on June 8, 1954, the complaint was made and charges preferred against the claimant and he was suspended from the carrier's service. In protest of the treatment of their local chairman, the

Mr. Stephens entered carrier's service on October 9, 1949. Considerable difficulty had been experienced prior to the incident here involved in getting him to perform work he was hired to do. He insisted on loafing and interfering with the work of other employes. His attitude was that he, as local chairman of the electrical workers' organization, was a privileged character and was, therefore, privileged to work only when it suited his convenience. As evidenced by the record, he threatened to have his immediate superiors expelled from membership in the electrical workers' organization simply because they insisted on his working, rather than loafing. He was insubordinate to them and to the master mechanic and assistant master mechanic. He was an undesirable employe. This is further supported by Stephens' actions following his dismissal, referred to in carrier's statement of facts. Under the circumstances, there is no basis for the carrier to extend leniency and the Board has no authority to do so.

CONCLUSION

Mr. W. P. Stephens, Jr., having been guilty of loafing, disrupting the work by interfering with other employes in the performance of their duties, insubordination and intimidation, was dismissed for just and sufficient cause. Such action was fully supported by the agreement between the parties hereto. In these circumstances, a denial award should be made.

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 claimant was discharged from the carrier's service following an investigation. The record indicates that there was sufficient evidence brought out in the investigation to justify the carrier's determination that the claimant was guilty of loafing, disrupting work by interfering with other employes in performance of their duties, and insubordination.

The record indicates that the claimant had been warned about his conduct on occasions prior to the time formal investigation was held, but he apparently chose to ignore the warnings.

The subject of discipline should never be treated lightly. It is a subject which this Board must consider quite frequently. We recognize the need for discipline to maintain order, safeguard lives and property, and to assure a pattern of general efficiency.

As we regard the subject of discipline, it should be considered from the standpoint of reasonable effectiveness. Punishment of the violator should be of a degree compatible with the seriousness of the violation.

The purpose of discipline is two-fold—to punish the violator and to point out to other employes the seriousness of violations. Abusive use of the right to discipline should never be condoned. By such use would the purpose be defeated.

Once it has been established that an employe has been guilty of an offense, which requires disciplinary action, all of the facts and circumstances should be very carefully considered before arriving at a decision as to the amount of discipline warranted. In such deliberation it is our opinion that the following should be carefully considered:

1. The seriousness of the infraction.

(a) Did such violation create a hazard to life or property?

(b) Was there a question of moral turpitude?

(c) Was the violation intentional or was it a result of accident, misconception or ignorance of the rules?

2. The past record of the violator.

(a) The length of time spent in the service of the carrier.

(b) The service record of the violator throughout his entire service with the carrier.

3. The attitude of the employe in respect to the likelihood of a violation in the future.

4. The effect of the amount of discipline, upon the other employes, in pointing out the necessity of compliance with the rules.

It is our opinion that the record in this instant case does not give us an adequate foundation upon which we could base an opinion of modification of the amount of discipline assessed by this carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 21st day of February, 1956.