



Award No. 4800
Docket No. 4721
2-SP(T&L)-FO-'65

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 162, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. — C. I. O. (Firemen & Oilers)**

**SOUTHERN PACIFIC COMPANY — TEXAS AND LOUISIANA
LINES**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement, Laborer Alex Sampson was unjustly dismissed from the service of the Carrier on October 3, 1963.

2. That accordingly the Carrier be ordered to reinstate this employe with all his seniority and service rights intact and pay for all time lost effective with September 18, 1963.

EMPLOYEES' STATEMENT OF FACTS: Laborer Alex Sampson, hereinafter referred to as the claimant, entered the service of the carrier on Aug. 23, 1950, remaining therein until Oct. 3, 1963, the effective date of his dismissal.

On April 24, 1963, the claimant, while engaged in his regular duties as car cleaner, suffered an injury which he reported to his foreman at the close of his shift, and was given an order to go to the doctor. He was treated and sent home with instructions to rest.

Continuing to complain of pain, the claimant was admitted to the general hospital at Houston on April 26, 1963 and was confined therein until released on June 6, 1963.

Following his release from the hospital, he continued under doctor's care from June 6, 1963 until Sept. 10, 1963, when he was readmitted to the general hospital and again released on Sept. 16, 1963.

Under date of Sept. 17, 1963, he was given a release to return to duty on Sept. 18, 1963 by J. R. Gandy, M.D. Chief Surgeon.

respectfully asks the board to allow the deduction of outside earnings in line with the many Awards of the Second Division reaching such results.

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.

Parties to said dispute waived right of appearance at hearing thereon.

Credible evidence was adduced at the investigation to support the decision that claimant was guilty of the charge against him. Basically the decision of the hearing officer accepts the testimony of other witnesses and rejects that of the claimant. This is not an unreasonable evaluation of the evidence.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of December, 1965.