

The Second Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

Parties to Dispute: (System Federation No. 8, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Missouri-Kansas-Texas Railroad Company

Dispute: Claim of Employees:

1. That under the current Agreement Non-Journeyman Carman R. G. DeGraeve was unjustly dealt with when he was pulled out of service of the Missouri-Kansas-Texas Railroad Company at Glen Park, Kansas, beginning with the date of November 7, 1974.
2. That accordingly the Missouri-Kansas-Texas Railroad Company at Glen Park, Kansas, be ordered to compensate Non-Journeyman Carman R. G. DeGraeve for all time lost, vacation rights, made whole for all pension benefits including Railroad Retirement and Unemployment Insurance, made whole for all health and welfare insurance, made whole for any other benefits that he would have earned during the time he is held out of service beginning with the date of November 7, 1974 until returned to service.

Findings:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Claimant was notified to attend an investigation concerning an allegation that he stole, and then sold, certain grain on specified days in January and February of 1974. Prior to the investigation, Claimant was suspended from service; which action we find to have been appropriate under this record.

Subsequent to the investigation, Claimant was dismissed from service.

At the investigation, Claimant conceded that he removed and sold the material, without authorization from any Official of the Carrier. However, he denied any dishonest intent, claiming that his Lead Carman had granted permission for reasons dealing with "safety." It appears, however, that said Lead Carman may very well have been implicated in the activity, and certain of the money realized from the sale was distributed to him.

In any event, Claimant entered a plea of guilty in Court to charges of unlawfully, willingly and knowingly stealing the grain.

This Board finds that the record contains substantial evidence (including Claimant's testimony) to conclude that Claimant was guilty of improper removal of grain from Carrier's property.

We find no basis for determining that the punishment of dismissal was excessive or arbitrary.

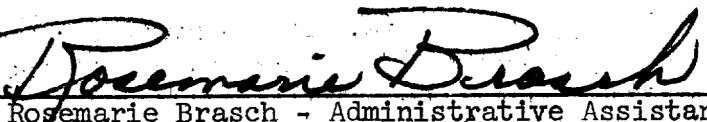
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 3rd day of December, 1976.