

The Second Division consisted of the regular members and in addition Referee Higdon C. Roberts, Jr. when award was rendered.

Parties to Dispute: { System Federation No. 1, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Blacksmiths)
 { Consolidated Rail Corporation

Dispute: Claim of Employees:

1. Blacksmith C. M. Savino was not given a proper notice as provided for in Rule 6-A-3 of the Current Agreement, in that the notice given him to appear for a trial shows he was charged with "fighting with fellow employee during tour of duty February 8, 1978.
2. That accordingly, The Consolidated Rail Corporation be ordered to strike these charges from Blacksmith Savinos' record and the suspension be lifted; also that he be made whole for any loss incurred as a result of this suspension.

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.

Claimant was charged, in part, with fighting with fellow-employee". The record indicates that the claimant and another employee were involved in a loud argument during their tour of duty on the date in question. This incident was handled at the time and on the spot by supervision (Messrs. Lampenfind, Yartin, and Kowalski) and there was no indication of further discipline at the time.

It is however clearly established that the claimant was involved in a fight with the same fellow-employee following their tour of duty. This altercation, while not actually occurring on the work-site, did take place in the Company Parking Lot. It is impossible, due to the conflicting testimony for this Board to determine, who struck the first blow and/or initiated the fight through other action.

Nonetheless, claimant was involved in the fight and a host of awards of this Division, as well as other tribunals have found such action to be conduct unbecoming an employee. In view of this, and considering the claimant's prior record we do not find the ninety (90) days suspension excessive.

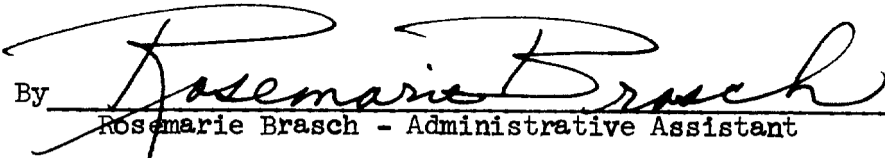
A W A R D

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 21st day of May, 1980.